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ABSTRACT

This curriculum guide offers an interdisciplinary approach to law-related education (LRE) intended to assist teachers with introducing LRE into courses for students with limited ability to speak English. The guide opens with a definition of LRE, its objectives and methods, and its place in the general school curriculum. The introductory section also includes a description of the Institute for Citizen Education in the Law (ICEL) and a history of this curriculum project. The 20 units of the curriculum cover: the roles of judges, lawyers, and juries; the significance of the Constitution and Bill of Rights; the processes of the trial and appeals; courts and justice; courtroom protocols; fair police procedures and working with the police; suppression hearing; searches; child protective services; parents and children; legal issues of domestic violence; landlord-tenant relations; and consumer law. The lessons encourage interactive and cooperative learning through the methods of brainstorming, hypotheticals and case studies, role playing and simulation, group activities, and opinion polls. Each lesson plan specifies the number of class periods required, the objectives, procedures and vocabulary. Many of the lesson plans provide student handouts such as legal documents and worksheets. (JD)

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Court Access

A Law-Related Education Curriculum for Limited-English Speakers

A Joint Publication of the
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and the
Washington State
Office of the Administrator for the Courts

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Written by
Margaret E. Fisher
Julia Ann Gold

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Institute for Citizen Education in the Law
Seattle University School of Law
950 Broadway Plaza
Tacoma, WA 98402-4470
206-591-2215

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The committee is composed of:

- Judge Charles J. DeLaurenti, II (Chair) King County District Court (Renton Division)
- Ms. Darlene Allen, Court Administrator, Renton Municipal Court
- Mr. Thomas J. Davis, Court Administrator, Spokane County Juvenile Court
- Justice James M. Dolliver, Washington State Supreme Court
- Ms. Beverly A. Finke, County Clerk, Franklin County Clerk
- Judge Rod Fitch, Yakima County District Court
- Judge Judith Hightower, Seattle Municipal Court
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- Ms. Beruke Giday, Coordinator of the Domestic Violence Project of the Refugee Women's Alliance
- Ms. Sarah Hogan, Seattle Central Community College English as a Second Language (ESL) instructor
- Ms. Maxine Fang-Yi Loo, bilingual teacher, Seattle School District
- Mr. Allyn Stillman, ESL teacher, Tacoma School District
- Dr. Thuy Vu, Director of the Division of Refugee Assistance, Washington State Department of Social and Health Services

Introduction

The primary objective of this Court Access project is to improve the quality of justice for limited English speakers in America. The project increases understanding of law most relevant to newcomers and improves law-related skills by using a unique pairing of judges with educators to teach law-related topics. At the same time that the judges are assisting teachers in this educational effort, the judges themselves are being sensitized to the difficulties and cultural differences faced by this population. The project intends that this sensitization will result in a modification of court practices and procedures to reduce unnecessary barriers to courts.

What Is Law-Related Education?

According to the Law-Related Education Act of 1978 [statement adapted from the Winter 1983 *LRE Project Exchange*, "Why Lawyers Must Care About LRE," published by the American Bar Association]:

> *...the term law-related education means education to equip nonlawyers with knowledge and skills pertaining to the law, the legal process, and the legal system, and the fundamental principles and values on which these are based. Law-related education (LRE) helps students develop the knowledge, skills, understanding, and attitudes necessary to function effectively in a pluralistic, democratic society based on the rule of law.*

LRE teaches people how the legal and political systems function and—most of all—how they fit in. How does the law affect them and how can they affect it? What relevance does the Constitution have in their lives? Why have certain legal procedures been established and how well have they worked in resolving disputes?

LRE is about real issues as they affect real people: little people and big people. At its best, LRE teaches students to reason through hard questions and to grapple with realistic problems. Students might look at the problems of assuring equality in a diverse society or the conflict between rights and responsibilities. The emphasis often may be on applied skills, such as how to read a contract and become a wiser consumer, or may be on such broad skills as analytical thinking, ability to persuade others, and ability to reach decisions after having identified issues and weighed evidence.

Law-related education is active. It teaches because it involves people. It works because it has them confront—in case studies, role-plays, mock trials, and other active instructional techniques—the actual dilemmas that citizens must face if they are to make democracy work. In many programs, including this one, students meet with judges, lawyers, police, and other community people to see the law in action.

Law-related education has particular relevance for newcomers. The great majority of the time, newcomers have no framework within which to think about a government system based on limited government and individual rights. The role of

government, particularly police and courts, may have been oppressive in the students' home country. Constitutions were merely pieces of paper that had no force. Families operated without much governmental interference in child rearing or use of force. These cultural and legal differences between the United States and the newcomers' home country have real consequences. The newcomer who pays her bail thinking that she has paid her fine has a very unpleasant education ahead.

Institute for Citizen Education in the Law (ICEL)

The Institute was created in 1987 at the University of Puget Sound School of Law and was transferred along with the law school to Seattle University in 1994. The Institute promotes innovative and lasting programs that educate about the law, the legal process and the legal system in elementary and secondary schools as well as the adult community. Its law-related education initiatives advance school and community efforts to solve problems of drugs and violence, promote civic participation in society, increase all students' attendance and achievement in school, advance youth community service projects, and promote citizen education on legal rights and responsibilities.

The Institute works to increase awareness of rules that govern everyday behavior, promote values of democracy and understanding of the Constitution, increase effective citizen participation, promote willingness to use legal means to resolve disputes, and increase levels of tolerance, fairness and respect for the rights of others.

The Institute develops LRE print, computer-based and video materials for use in classrooms, conducts training of teachers, judges, lawyers and other resource persons, and assists other states and countries in developing citizenship education programs to promote democracy.

Office of the Administrator for the Courts

The Office of the Administrator for the Courts (OAC) is established by state statute to provide support to the courts of Washington. The agency develops and maintains the automated Judicial Information System for the courts and implements judicial education programs for judges and court staff. The OAC offers professional consulting assistance in areas such as jury management and case flow management, and seeks to provide innovative solutions to court business problems.

Through activities such as law-related education, the OAC supports the courts' efforts to increase public understanding of the judicial system. Since 1991, it has operated the Judges in the Classroom project in which judges are paired with trained elementary and secondary LRE teachers. The judges present lesson plans that have been written specifically for them.

The minority and justice commission and the interpreter education and certification program, both supported by the OAC, are examples of Washington's commitment to facilitate access to the courts by all residents of the state.

A History of the Project

The Office of the Administrator for the Courts, the administrative agency of the Washington Supreme Court, joined forces with the Office of the Superintendent of Public Instruction in 1991 to develop the program Judges in the Classroom. The concept was to develop teacher-judge teams to teach students about the law. ICEL was hired to develop lessons for judges that would accompany LRE curricula that it had developed for upper elementary, middle school and secondary students. Judges were paired with teachers from ICEL training programs.

A spin-off of this effort came about because of

the perceived need of limited English speakers to have a curriculum particularly tailored to their needs. In 1992, ICEL and OAC prepared a grant application to the State Justice Institute. The proposed project addressed the removal of unnecessary cultural barriers to courts faced by limited English speakers. The goals were twofold:

1. To bring survival law-related knowledge and skills to newcomers.
2. To assist judges in appreciating the cultural differences and experiences of newcomers and thus changing courtroom practices to facilitate access.

The State Justice Institute made a two-year award to OAC, beginning in 1992. The first task was to assemble an advisory committee. This committee had overall responsibility to see that the project accomplished its purpose in the most effective manner. Ms. Ann Sweeney, of OAC, served as Project Manager until she changed employment. Ms. Joanne I. Moore took over from Ann in March of 1993.

Law-related topics of greatest relevance to newcomers were selected after several steps. Legal organizations, the advisory board of judges, educational, social and community organizations in contact with limited English speakers along with newcomers themselves were polled as to the need for information. More topic areas were identified than could be addressed in the first curriculum. A ranking was conducted by the project's Advisory Committee to make the final selections.

Thirty teachers representing secondary schools, community colleges, and community organizations were selected from 70 applicants for training in June 1993. Judges were selected to match the locations of the teachers and paired with a teacher. A one-day training session was conducted for judges during the annual judicial conference in Yakima in September 1993. Several of these ESL teachers attended the judicial training and assisted in orienting judges to educational techniques for limited English speakers. A videotape of that judicial training was made and edited to a one-hour session. This can be obtained from ICEL.

These teacher/judge pairs began teaching the curriculum in the fall of 1993. A half-day program was held for the teachers in May 1994 to critique the program and the individual units. A final revision of the curriculum was then made before submitting it to the desktop publisher. Copies of the curriculum are being disseminated to the 50 state court systems and to SJI.

Evaluation Results

The program was evaluated by an outside evaluator, Heide Spruck Wrigley. Dr. Wrigley specializes in research and evaluation of programs serving language minority adults. She is the outside evaluator of several ESL transition programs as well as a consultant to family and workplace literacy programs in Texas, California and Virginia. She has directed two national studies on ESL, one focusing on promising practices in ESL literacy, and the other providing an analysis of ESL policy and practice in the United States. She is the author of *Bringing Literacy to Life*, a handbook for practitioners and administrators. Dr. Wrigley holds a Ph.D. in Education with a specialization in Language Literacy and Learning.

The evaluator met with several focus groups of students and teachers from the program. She reported these responses:

- The response of the learners to the curriculum was overwhelmingly positive. When asked to rate the curriculum on a scale of 1 to 10 in terms of usefulness (1 being "a waste of time" and 10 "almost perfect"), two-thirds of the students groups interviewed consistently gave the course a 9 or 10 rating. Those who rated the curriculum 7 or 8 were still very positive, but felt that

parts of the curriculum were a bit difficult for students with few English skills.

- Students were fascinated by the subject matter overall and found the segments that discussed "everyday law" (leases, consumer laws, small claims court) both useful and interesting.
- Many of the students praised the discussion of the Bill of Rights contained in the curriculum. Several mentioned how impressed they were with the fact that the Constitution is a "living document" that still shapes everyday life in the United States. A number of students (particularly those from countries in the former Soviet Union) commented that although their countries had constitutions, these constitutions were merely "pieces of paper" that did not inform everyday law or that could not be used in defense of ordinary citizens. Finding that the rights contained in the U.S. Constitution are still viable in present day court proceedings (such as the O.J. Simpson trial) was "an eye-opener" for many.
- The units that discussed Domestic Violence and Child Abuse struck a chord with many of the men and women who participated in the program. (This was mentioned by both men and women.) Getting up-to-date, precise information on the laws that are meant to protect children and spouses provided them with some of the cultural insights necessary to understand and negotiate the U.S. system.

Following the teacher training, the teachers rated the program with extremely high marks. They commented that everyone in the community should have this information and skill and on the critical importance of the contact between the court and students in helping students understand the justice system. Teachers commented that teaching ESL through content area is extremely "cutting edge," that ESL is ten years beyond dialogue memorization and grammar drills. Teaching through real, meaningful content is the ideal way to truly learn English.

The judges' responses were also highly favorable. A consistent comment made by judges was that the process demystifies the role of judges and the judicial system. The class provides a forum for non-English speakers to get through barriers in understanding and accessing this essential aspect of life in the United States. Judges also agreed that the contact with students helped to sensitize them to cultural issues they might not otherwise be aware of. This directly affects the judges' perceptions and treatment of non-English speakers in the courtroom.

The evaluator commented that the Court Access curriculum:

- Demonstrates the best that ESL for adults and youth can offer the field. Specifically, it has real life content, is presented by experts in the field, and is relevant to the lives of language minority youths and adults. This content speaks to the questions of newcomers as well as to those who have lived here for some time.
- Helps students build their knowledge base as to the workings of the court system and the principles that guide our laws.
- Makes the learning real through the field experiences such as visits by judges to the classroom and class observations of trials in the courtroom.
- Challenges students and supports their efforts to understand the information presented through the role-plays, scenarios, case studies and other interactive learning opportunities.
- Helps students to build their vocabulary along with their knowledge base through its language development activities.

The project was presented at the 1993 international conference of Chief Justices of State Courts, at the 1994 international conference of Teachers of

English to Speakers of Other Languages (TESOL) and at a 1994 national Law-Related Education conference.

Implementation Guide

The project is designed with the hope and structure for its national dissemination. Features of the Court Access curriculum include the judge/teacher team, the format of the units and lesson plans, classroom activities appropriate for the teaching of English as a Second Language, localization boxes, and available supporting videotape training for judges. The curriculum was developed for students at intermediate and above ESL classes in community colleges and organizations. Additionally, the curriculum can be used in high school classes of ESL students. The level of English in the curriculum varies, some units are more difficult than others. Teachers are free and encouraged to make adaptations of the curriculum to suit their students' needs.

The best model for delivering this course is to pair a judge and ESL teacher to team teach. Judges are asked to contribute at least four classroom sessions per semester/quarter for one year. To identify a judge, the teacher might contact their state's court administrator's office or directly call a local judge.

Judges interested in participating may find it useful to view the one-hour videotape, demonstrating effective education methods with ESL students. This can be obtained from ICEL, Seattle University School of Law, 950 Broadway Plaza, Tacoma WA 98402-4470, 206-591-2215.

The teacher presents the lessons in a selected unit and the judge presents the lesson from that unit labeled "Judge's Lesson."

While not the ideal, a teacher could teach this curriculum unpaired. Lessons labeled "Judge's Lesson" can be taught by the teacher or by another outside resource person.

The teacher is encouraged to make use of other resource persons in the classroom, for example, police, lawyers, social workers, counselors, mediators and others.

Teachers are not expected to teach each unit each semester or quarter, but are instead encouraged to select from the 20 modular units the most suitable units for the class. Each unit consists of two to six lessons, one of which is labeled "Judge's Lesson."

These units provide explicit instructions for teachers and judges, with accompanying student handouts. However, the lesson plans are intended only as guides. Teachers and judges may decide not to cover every point made nor should the they read word-for-word except to give hypotheticals or quote facts as needed. Only the handouts are to be distributed to students.

Each unit begins with a description of its contents. Each lesson plan lists the specific learning objectives. The lessons include a time estimate. Obviously, this will vary depending on the reading level of the students. We encourage teachers to adapt the materials to meet the needs of their classes.

Any materials needed for the course are identified, including the accompanying handouts.

A vocabulary list of legal terms is provided for specific legal words that are used in the unit. The teacher is expected to identify and define other words for students.

Next, the procedures are laid out. Answers are provided in this section to the questions and activities presented in the handouts.

Handouts are identified by lesson and title. The teacher should reproduce the handouts prior to class in sufficient number for students. The original should be kept clean and returned to the three-ring binder for subsequent use.

Included throughout the units are suggested teaching strategies designed to encourage student participation in the classroom. A minimum of lectures and a maximum of student involvement

have been found to be most successful in using this type of curriculum. These methods are described in a later section.

Since the program was developed and field-tested in Washington state, the legal information in the curriculum is specific to Washington State. Sometimes the information is based on the U.S. Constitution which applies nationally.

To facilitate use of this curriculum in other states, the authors have included localization boxes. These localization boxes, labeled "Your State," appear throughout the units. They indicate to the instructor what laws, practices or resources should be identified in the state prior to teaching the class. In this way, the instructor can present the most applicable law to students.

Teachers might wish to contact their state LRE coordinator, their state or local bar association, their state department of education and/or their state attorney general's office, to determine what localized LRE information is available. The judge may also play a role in identifying local law and practice.

Methods in the Court Access Curriculum

The various methods included in the curriculum are briefly described below. They are merely included as a refresher and an indication of how they fit into this curriculum.

Problem Posing

This strategy, developed by Brazilian, Paulo Freire, is discussed by Nina Wallerstein in her book, *Language and Culture in Conflict, Problem Posing in the ESL Classroom*. Many of the units start by posing open-ended questions about a problem that raises issues in the students' lives. By encouraging a dialogue about the problem, the teacher leads students to see how a problem applies to them, why the problem exists, and what can be done about it.

Questions to encourage this type of dialogue might be:

- What do you see?
- What is the problem here?
- Is this your problem?
- Why is there a problem?
- What can you do about it?

Whenever possible, the teacher is encouraged to allow students to describe how a legal practice in the United States compares to the way things were in their native country. Students are also encouraged to investigate these questions in their ethnic community. As in America, not all individuals are familiar with the legal practices in their native country.

Small Groups

Used in conjunction with a number of other strategies, small groups are a very effective tool for promoting cooperative learning and student interaction. Small group learning, like so many other teaching methods, can yield wonderful results if teachers and students learn how to maximize its potential advantages and minimize or even eliminate its potential disadvantages.

Among the many potential advantages these units try to promote, the principal advantage is the high level of student interest and involvement that is possible in small group learning experiences.

Carefully structured, small group learning activities can all but ensure active learning by every student in the class. The key, though, is the phrase "carefully structured." For small group learning to work successfully, the tasks given to groups must be carefully thought through and structured so that the group knows what it must do, stays on task, and manages its time according to a prearranged timetable.

Jigsaw

Jigsaw is a method of configuring groups. In the jigsaw method, students who have been working in small groups form new groups, with one member from each of the "old groups" represented in the new group. This way each new group has the benefit of the perspective and discussion of all of the former groups.

Brainstorming

This method calls for the students to come up with a list of responses to a question posed by the teacher. It is usually best to write these responses on the board as students answer and, after the class' suggestions are exhausted, to add any overlooked answers and then discuss them in more detail.

Hypotheticals and Case Studies

This method presents a statement of fact and requires the application of some aspect of the law to these facts. While the "answer" to the problem is important, the greater value lies in using questions and other discussion techniques to bring out arguments and considerations on all sides of the issues. Most of the hypotheticals (included as handouts or written into the teacher guide) are based on real cases — the use of these enhances student interest and learning.

Suggested steps to take in discussing a hypothetical or case study follow:

- Have the teacher, or a student who is a good reader, read the hypothetical aloud.
- Ask other students to list the key factors in the case (write on the board).
- Ask what the issues are in the specific case. Ask students to state each issue as a question.
- Ask students to give arguments on both sides of the issues. Discuss and try to remain unbiased.
- Ask the students what they thought the decision was in the real case. Tell them what the decision was and the reasons for it. Ask if this was the correct decision. Why or why not?
- What was the significance of the decision? What reasoning did the court use to arrive at the decision? Did it set a precedent for the future? Is it likely to be changed in the future?

Role-plays and Simulations

Mock trials and oral arguments (called moot court) are simulations of actual courtroom activities. The activities are designed to focus student interest on a particular law or procedure while allowing them the opportunity to demonstrate the knowledge they have acquired. These activities also allow students to gain different perspectives by observing the role of another and allow them to practice persuasive skills.

There are three stages of development in any role-play: preparation, enactment, and debriefing. The preparation stage involves assignment of roles, explanation of the process and preparation time for the players to learn their roles. Many of the hearings are simplified to allow completion in a single class period; others are designed with one or two days of preparation. Roles are provided for the entire class to participate, students without specific roles can serve as observers who must write decisions.

Teachers should play a low-key or even invisible role during the enactment of the mock hearing. In certain instances, where the activity has gone way off track or part of it is taking too long, it may be appropriate for the teacher to step in and make suggestions or ask questions.

The most important of these stages is the debriefing, which should use questioning to raise questions such as: What were the key issues raised in the hearing? What is the law or principle that was involved here? Were the participants realistic and effective in their roles? Could they have performed their roles differently? Were there arguments not made that you would have made?

How would you have decided the case? Was the proceeding fair?

Several of the mock trials in this curriculum are scripted. This allows students to get a feel for the way a trial might run while also giving them vocabulary for the legal process.

Visual Aids

Pictures and charts are also useful ways to present information. Students studying the courts examine a picture of the Western concept of Justice.

Opinion Poll

An opinion poll is a strategy that allows students to express their opinions on the topic of study. Typically, a poll allows for a spread of opinions (agree, undecided, disagree). An opinion poll can serve as a springboard for classroom discussion, give the teacher feedback on student values, be used to assess changes in students' attitudes following instruction and lay the foundation for how the law in fact applies to the situation described.

To conduct an opinion poll, the teacher should have each student privately express his or her opinion (for example, by writing the appropriate response on the student handout). The teacher should then develop a class composite. This can be done by a simple show of hands, by having students move to align themselves under a banner agreeing with their position, or other creative ways. Finally, students should be asked to identify their opinions and list opposing points of view.

The instructor can use various poll items dealing with the same principle to check the consistency of student beliefs. Afterwards, the teacher should then present information as to the state of the law in Washington on the items in the poll. It is important that teachers recognize that varying shades of opinions are legitimate, even when opinions differ from the law or the teacher's own views. Students, however, are expected to give reasons for their opinions. It is useful to use the opinion poll as a demonstration of the legislative process which evaluates various values and designs statutes based on the majority's values.

Questioning

Questioning is used in this material to:

- Check for student understanding.
- Solicit student opinions on controversial issues.
- Teach higher level thinking skills.
- Lead students to an answer the teacher desires.

In each case, teachers should try to equalize wait time (that is, the time given to students to respond to a particular question). It is also desirable to promote student-to-student questioning and discussion where appropriate.

Lecture

This method should be limited as much as possible since great use of lecturing will be of negative value. However, there are times when certain points may be made most appropriately by lecture. It is important to give examples, ask questions and brainstorm during a lecture.

Evaluation

Teachers should use a variety of methods to check frequently for student understanding. Question and answer techniques and short hypotheticals are useful to measure class progress and understanding. The lesson objectives are useful guides to writing questions for review.

The Judge's First Visit

Description of the Unit

This unit guides the teacher in preparing students for the first visit of their judge. Teachers and judges should anticipate that the first visit will focus primarily on developing a relationship between students and the judge. Teachers are encouraged to work with students in advance of the visit to prepare questions for the judge and to submit these questions to the judge. Additionally, teachers will establish a working relationship with the judge during the first visit, demonstrating to the judge how the teacher can facilitate class questions and class understanding. Teachers are encouraged to debrief the judge's visit with the class and to follow up with a thank you to the judge.

The Judge's First Visit

Lesson 1: Preparing the Students

Objectives

- Students will explore their personal attitudes about judges.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

> **Note**: The amount of time required for each lesson will depend on the reading level of your students. Many lessons have a student handout that may require some time for many students to read. You may wish to assign the reading as homework the night before so that class time can be spent discussing the reading.

Materials

None.

Vocabulary

The approach in the vocabulary section is to list and define words that have legal content. It is expected that the teacher will identify and define other words that are unfamiliar to students.

- **Appeals judge** reviews what lower courts have decided to see if there are mistakes. The judge reads and listens to arguments made by lawyers before deciding whether there was a mistake.
- **Trial judge** is a court officer who manages the courtroom and makes sure that trials are fair. In trials without juries, the judge decides the case. In trials with juries, the jury decides the case.

Procedures

■ Tell students that today's class will prepare for their first meeting with their judge. The teacher should explain the nature of the program to students.

■ Students should brainstorm as a group some questions they would like to ask a judge. They should then be put into a pair or small group to develop at least three questions they would like to ask a judge. These questions will be collected and then given to the judge prior to the first visit.

As an example, in one class [ESL Class, 3B, Seattle Central Community College, Sarah Hogan, Instructor, 1994], students prepared these questions:

- What if I break the law but I don't know, will I be accused?
- I have two friends and both of them are separated from their wives. One has three children and he pays $300 a month child support. The second one has one child and he pays $300 a month. How can this happen in court that they pay the same for one child as for three?
- Will a drunk man go to jail if he causes an auto accident?
- Can I shoot someone in defense who comes into my house to rob me?

- Can everyone buy a gun?
- If a student brought a gun to class, what kind of punishment would they have?
- What if I own a gun and I lose it, then somehow it is involved in a serious crime. Am I responsible for that matter?
- Why doesn't the American government control guns?
- If I'm not a U.S. citizen, can I buy a gun for protection?
- What's the relationship between judge and jury in the court? How do they work together?
- If I don't want you to be my judge, do I have a right to refuse you?
- I always hear about child abuse problems. I have my own culture and I would like to raise my child as far as my culture. So, if she does something wrong and I hit her, is this child abuse?
- What kinds of law protect a pregnant woman at work from discrimination? Can she be fired from work just because they don't want to give her a light duty job?
- At school someone broke my brother's arm but the school says they don't know who did it. Can I sue?

■ Instruct students that the judge should not be asked about their particular legal problems.

Some teachers have videotaped the judge's visit and allowed students to take the videotape home to share with family members. Other classes showed the videotape at subsequent classes, stopping the tape to clarify comments.

It is also very helpful for the teacher to take notes on the questions asked by students and the answers from the judge. These can be integrated into the debriefing of the judge's visit.

The Judge's First Visit

Lesson 2: The Judge Visits

Objectives

- Students will meet and get to know a judge.
- Students will also have the opportunity to speak, write, read, and understand English.

Estimated Time

One 50-minute class period.

Materials

You might consider bringing a photograph of the judges from your court. Students are always amazed that there can be female and minority judges.

Vocabulary

The judge and teacher should discuss how the teacher can be useful in identifying legal words used by the judge that students do not understand.

Procedures

■ You should introduce yourself to the class. Write your name on the board and indicate how you wish to be called. You might give students a choice of a more formal way to address you, if you intend to have them call you by your first name.

■ You can begin to put students at ease by asking each student to introduce themselves to you, giving their name, where they came from and how long they have been in the United States.

■ Invite students to ask questions of you, both those written ahead of time and those they may ask on the spot.

Sample on-the-spot questions from one class [ESL Class, 30A, Edmonds Community College, Esther Ott, Instructor, 1994] included:

- What do people call you?
- How should people address a judge in court?
- What is your educational background?
- What is the difference between a lawyer and an attorney?
- How is a jury selected?
- Can a judge dismiss a jury?
- How can common citizens be jurors if they do not know law?
- What does the judge do?
- What can a person do who did something wrong, simply because his first language is not English?

■ Thank the students and tell them that you are looking forward to returning to the class.

The Judge's First Visit

Lesson 3: After the Judge Visits

Objectives

- Students will analyze what they learned from the judge's visit.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

None.

Vocabulary

None.

Procedures

■ Debrief the visit of the judge with the class. For example, in one class [ESL Class, 30A, Edmonds Community College, Esther Ott, Instructor, 1994], the teacher debriefed the class in this way. The teacher had taken notes on the questions and answers posed during the visit.

What are some of the things Judge Ryan talked about and some of the vocabulary we should know?

Question: What do you call a judge in court?

Answer: "Your Honor" or "Judge."

Q: What do you call a judge in public?

A: That depends. Judge Ryan, for example, told you to call him Tim. However, he also said that he calls some of the judges he met many years ago, when he was young, judge.

He said he likes to joke and be funny so that things don't get stuffy. What's "stuffy"? That means "no humor." We also say a room is stuffy, if there is no fresh air in it. Or, if you have a cold and you cannot breathe through your nose, we say we have a "stuffy" nose.

Q: How do you become a lawyer?

A: First you get a four-year college degree (a B.A. or B.S.). Next, you apply to law schools. In this state there are three law schools: the University of Washington, Gonzaga (private Catholic school) and the University of Puget Sound (Tacoma). After you finish law school, you get a J.D. (Juris Doctorate) degree.

Q: How do you become a judge?

A: In state court, either people vote for you to become a judge in their area or you are appointed.

Once you are appointed, you have to "run" every four years, i.e., you have to be voted back in again.

Q: How is a jury selected?

A: Anyone registered to vote and of good standing is in a computer. The computer picks every fourth person. Before a person becomes a juror, two attorneys ask the jurors questions to make sure that the jurors are suitable.

Q: How can a common citizen be a juror if he does not know the law?

A: The judge and/or court gives the jurors instructions.

Q: What does a judge do?

He works in court (we say he "is on the bench") He has many papers to sign. Some judges also marry people.

Q: What can someone do who has to go to court but does not speak English very well?

A: Everybody who does not speak English as a first language is entitled (that means, has the right) to an interpreter.

Q: Does the person who needs an interpreter have to pay for the interpreter?

A: No. Never.

Q: How do I let the judge know that I need an interpreter?

A: When you go to court the first time and your name is called, simply tell the judge that you would like an interpreter.

Q: Does an interpreter have to know the law?

A: No. Court interpreters are tested so that we can be sure that they understand both English and the foreign language they are working in well enough to tell the English speakers what the non-English speakers said and to tell the non-English speakers what the English speakers said.

Q: Who should I ask if I have a legal question?

A: You need a lawyer. Remember that expensive is not always the same as good. Usually it helps to ask your friends or people you know if they can recommend someone. Also, remember that lawyers are all specialized in particular fields. Like doctors, lawyers do not know everything about their field.

■ Students can then be assigned to write the judge a thank you letter. Tell students that they should write in their thank you letter what they learned from the first visit with the judge.

■ Send these letters to the judge.

Introduction to the U.S. Constitution

Description of the Unit

This unit begins with a game illustrating the necessity of rules or laws in our society. Students then examine the history of the U.S. Constitution. They are encouraged to compare the written U.S. Constitution with what they know of documents or legal traditions in their native country. Next, students study the Preamble from the Constitution, and learn new vocabulary with a matching game. The lesson ends with students discussing the meaning of the Preamble and paraphrasing it.

Attached to the end of the unit is a copy of possible questions and answers relating to the history and government of the U.S. These questions are published by the federal government, and may be asked during the interview for becoming a U.S. citizen. Information from this unit and the next unit will help prepare students for this test.

Introduction to the U.S. Constitution

Lesson 1: Why We Need Rules

Objectives

- Students will experience the chaos of a game without predictable rules, and then discuss why we need rules, or laws.
- Students will define "law."
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

None.

Vocabulary

- **Law** — the set of rules a group or community uses to regulate the conduct of people within it.

Procedures

■ Begin the class by announcing that you will be playing a game. [The "ring game," originally developed by Linda Riekes, has appeared in many law-related education texts, where it has been further refined and modified.]

You may alternatively call this a "test" and explain that the students will not receive instructions. Do not introduce the game by telling students it is an introduction to their study of the law, as this might affect how they play the game.

If students are not already in rows, ask them to form several rows. Then give the first student in each row a paper clip or other small object. Then, tell them to begin playing.

■ Students will probably be confused by the lack of directions, and many will feel frustrated or even angry. After 20 to 30 seconds, tell them to stop, and tell them the "rules" of the game: the first row to pass the clip to the last person and back to the front wins. Bring all clips back to the first person in the row, and tell them to start.

■ Once they have started, quickly stop them, and tell them they are not following the rule that says they must pass the clip with their left hand only. Students will react that you never told them this rule. Ignore any complaints, and get them started again.

■ Finally, stop them again and add another rule: anything will do. For example, women only must turn around twice before they pass the clip. (This should work so that the rows with more men will finish faster.) Let students complete the game and declare a "winner" based on a reason unrelated to how the game was played. For example, the row with the most students wearing glasses wins, or the row with the most men wins.

■ By this time, students should be entirely frustrated and angry. Ask them what they are feeling. Explore with students why they are feeling frustrated, etc. What was wrong with the game? Why was it hard to play? Was it unfair? If so, what made it unfair? What did they learn about rules?

In the discussion, lead students to consider these points:

- To be fair, a game needs clear and consistent rules that the players know before they start.
- Rules should not be changed in the middle of the game.
- One group should not be arbitrarily discriminated against (women who had to turn around twice were disadvantaged in the game).
- Winners should succeed based on their efforts and compliance with the rules, not some arbitrary standard.

■ Ask students to compare the game to rules that govern driving and traffic. What if no one knew that a green light means "go" and red means "stop?" Point out to students that these are "laws" and in our society they are necessary to have order. Work with students to come up with a definition of "law." If you have rules in your classroom, discuss those and why they exist.

Introduction to the U.S. Constitution

Lesson 2: The History of the U.S. Constitution

Objectives

- Students will review the history of the U.S. Constitution.
- Students will discuss the Constitution as the original source of law in the U.S.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of the handout — History of the U.S. Constitution.

Vocabulary

- **Amendment** — a change or addition to the Constitution.
- **Federal government** — the national or central government.
- **Preamble** — an introduction to a document that describes its purpose.

Procedures

■ Ask if anyone knows the source of laws in the United States. Students may respond the Congress, Senate, House of Representatives, legislature, etc. All of these are correct answers, in that these bodies *write* our laws. But ask students what is the original *source* of our laws. The U.S. Constitution is the foundation for our system of laws and the way our government is organized. It is the "supreme law of the land."

■ Ask students whether their native country had a constitution. What do they know about it? Was it written? How old is it? Has there been more than one constitution?

■ Ask students what they know about the U.S. Constitution. Give students a copy of the handout, History of the Constitution. Ask them to read it, and check for understanding by asking the following questions:

- What are the Articles of Confederation? *(The first document that set up the U.S. government.)*
- Why didn't the Articles of Confederation work? *(There wasn't a strong central government.)*
- When was the Constitution written? *(At the Constitutional Convention in Philadelphia in 1787.)*
- When did the Constitution go into effect? *(1789)*
- How many times has the Constitution been amended? *(27 times. The last amendment, banning mid-term Congressional pay raises, was passed in 1993.)*
- What are the first ten amendments called? *(The Bill of Rights.)*

History of the U.S. Constitution

In 1776, the original thirteen colonies in America declared their independence from England in the Declaration of Independence. The colonists fought with England and won their independence in the Revolutionary War. The colonists then wrote the Articles of Confederation to set up their new government. Each colony became a *state*.

The Articles of Confederation did not work well, however, because each state had too much power. There was no strong central government. During the summer of 1787, representatives from each of the thirteen states met in Philadelphia, Pennsylvania to write a new plan of government and revise the Articles of Confederation.

They started with an introduction, called the *Preamble*. They argued about how much power the central, or *federal* government should have and how much power each state would have.

They worked hard, and wrote the new document, called the Constitution. Each state then had to approve it. Approval by all thirteen states was finally completed in 1789. The U.S. Constitution, the first written Constitution, then became the law of the United States.

The Constitution describes the three branches of government: the Congress, the President, and the courts. The powers and responsibilities of each branch of government are explained.

The Constitution has been amended 27 times. The first ten amendments are called the Bill of Rights.

Introduction to the U.S. Constitution

Lesson 3: The Preamble

Objectives

- Students will read and discuss the meaning of the Preamble to the U.S. Constitution.
- Students will define words in the Preamble, using a matching game.
- Students will write the Preamble in their own words (paraphrase).
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of the handouts —the Preamble and the Matching Game.

Vocabulary

Words from the Preamble are defined in the Matching Game.

Procedures

> Note: The day before the Judge's arrival you may want to assign the Preamble for students to read as homework.

■ Tell students you will be looking closely at the Preamble to the U.S. Constitution. Ask if anyone knows what the word "Preamble" means. *(An introduction to a document that describes its purpose.)* Ask them to read the Preamble and circle words they do not know, and underline important words. (Students may have already done this.)

■ Tell students they will now play a matching game, using words from the Preamble to the U.S. Constitution. Pass out the Matching Game, and ask students to complete it as best they can.

■ Once students have worked with the Handout, review and discuss the correct answers.

> Answers: 1-A; 2-F; 3-H; 4-G; 5-B; 6-C; 7-D; 8-J; 9-I; 10-E.

■ Then divide students into groups of 3 to 5 students each, and ask each group, working together, to paraphrase the Preamble. One possibility might look like:

> We live in the United States. We want a better government. Therefore we are writing this Constitution. We want a fair system of justice, and we want peace in our country. We also want to be able to defend our country from enemies, and to make sure that we and our children are free now and into the future.

■ Explain to students that the U.S. Constitution is composed of several parts: the Preamble, seven "Articles," and 27 amendments, the first ten of which are called the "Bill of Rights." The Articles set forth and create the three branches of government (legislative, executive, and judicial), and

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describe the responsibilities of each branch and its powers. Other Articles describe the relationship between the federal government and state governments.

■ Conclude the lesson by taking questions from the students about your role as a member of the judicial branch of government in upholding the Constitution.

Preamble to the U.S. Constitution

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Preamble Matching Game

Match the words on the left with the correct meaning from the list on the right.

_____	1. establish	A. to set up, start
_____	2. justice	B. protection
_____	3. domestic	C. encourage
_____	4. tranquility	D. well being, happiness
_____	5. defense	E. approve
_____	6. promote	F. fairness
_____	7. welfare	G. peace
_____	8. liberty	H. at home
_____	9. posterity	I. future
_____	10. ordain	J. freedom

Citizenship Test

The Immigration and Naturalization Service (INS) has developed a list of 100 standardized United States history and government questions. The following list of 100 standardized United States history and government questions, as well as the answers, are being provided as a service to the public for use as a study/teaching guide.

Questions

1. What are the colors of our flag?
2. How many stars are there in our flag?
3. What color are the stars on our flag?
4. What do the stars on the flag mean?
5. How many stripes are there in the flag?
6. What color are the stripes?
7. What do the stripes on the flag mean?
8. How many states are there in the Union (United States)?
9. What is the 4th of July?
10. What is the date of Independence Day?
11. Independence from whom?
12. What country did we fight during the Revolutionary War?
13. Who was the first President of the United States?
14. Who is the President of the United States today?
15. Who is the Vice-President of the United States today?
16. Who elects the President of the United States?
17. Who becomes President of the United States if the President should die?
18. For how long do we elect the President?
19. What is the Constitution?
20. Can the Constitution be changed?
21. What do we call a change to the Constitution?
22. How many changes or amendments are there to the Constitution?
23. How many branches are there in our government?
24. What are the three branches of our government?
25. What is the legislative branch of our Government?
26. Who makes the laws in the United States?
27. What is Congress?
28. What are the duties of Congress?
29. Who elects Congress?
30. How many senator are there in Congress?
31. Can you name the two senators from your state?
32. For how long do we elect each senator?
33. How many representatives are there in Congress?
34. For how long do we elect the representatives?
35. What is the executive branch of our government?
36. What is the judiciary branch of our government?
37. What are the duties of the Supreme Court?
38. What is the supreme law of the United States?
39. What is the Bill of Rights?
40. What is the capital of your state?
41. Who is the current governor of your state?
42. Who becomes president of the United States if the President and the Vice-President should die?
43. Who is the Chief Justice of the Supreme Court?
44. Can you name the thirteen original states?
45. Who said, "Give me liberty or give me death"?
46. Which countries were our principal allies (friends) during World War II?
47. What is the 49th state of the Union (United States)?
48. How many terms can a President serve?
49. Who was Martin Luther King, Jr.?
50. Who is the head of your local government?

51. According to the Constitution, a person must meet certain requirements in order to be eligible to become President. Name one of these requirements.
52. Why are there 100 Senators in the Senate?
53. Who selects the Supreme Court justices?
54. How many Supreme Court justices are there?
55. Why did the Pilgrims come to America?
56. What is the head executive of a state government called?
57. What is the head executive of a city government called?
58. What holiday was celebrated for the first time by the American colonists?
59. Who was the main writer of the Declaration of Independence?
60. When was the Declaration of Independence adopted?
61. What is the basic belief of the Declaration of Independence?
62. What is the national anthem of the United States?
63. Who wrote the Star-Spangled Banner?
64. Where does freedom of speech come from?
65. What is the minimum voting age in the United States?
66. Who signs bills into laws?
67. What is the highest court in the United States?
68. Who was President during the Civil War?
69. What did the Emancipation Proclamation do?
70. What special group advises the President?
71. Which President is called the "Father of our country"?
72. What is the 50th state of the Union (United States)?
73. Who helped the Pilgrims in America?
74. What is the name of the ship that brought the Pilgrims to America?
75. What were the 13 original states of the U.S. called?
76. Name 3 rights or freedoms guaranteed by the Bill of Rights?
77. Who has the power to declare war?
78. Name one amendment which guarantees or addresses voting rights?
79. Which President freed the slaves?
80. In what year was the Constitution written?
81. What are the first 10 amendments to the Constitution called?
82. Name one purpose of the United Nations?
83. Where does Congress meet?
84. Whose rights are guaranteed by the Constitution and the Bill of Rights?
85. What is the introduction of the Constitution called?
86. Name one benefit of being a citizen of the United States?
87. What is the most important right granted to U.S. citizens?
88. What is the United States Capitol building?
89. What is the White House?
90. Where is the White House located?
91. What is the name of the President's official home?
92. Name one right guaranteed by the first amendment?
93. Who is the Commander in Chief of the U.S. military?
94. Which President was the first Commander in Chief of the U.S. military?
95. In what month do we vote for the President?
96. In what month is the new President inaugurated?
97. How many times may a Senator be reelected?
98. How many times may a Congressman be reelected?
99. What are the 2 major political parties in the U.S. today?
100. How many states are there in the United States?

Answers

1. Red, white, and blue
2. 50
3. White
4. One for each state in the Union (United States)
5. 13
6. Red and white
7. They represent the original thirteen states
8. 50
9. Independence Day
10. July 4th
11. England
12. England
13. George Washington
14. Bill Clinton
15. Albert Gore
16. The electoral college
17. Vice-President
18. Four years
19. The supreme law of the land
20. Yes
21. Amendments
22. 27
23. 3
24. Legislative, Executive, and Judiciary
25. Congress
26. Congress
27. The Senate and the House of Representatives
28. To make laws
29. The people
30. 100
31. (insert local information)
32. 6 years
33. 435
34. 2 years
35. The President, Cabinet, and departments under the Cabinet members.
36. The Supreme Court
37. To interpret laws
38. The Constitution
39. The first 10 amendments of the Constitution
40. (Insert local information)
41. (insert local information)
42. Speaker of the House of Representatives
43. William Rehnquist
44. Connecticut, New Hampshire, Pennsylvania, New York, New Jersey, Massachusetts, Delaware, Virginia, North Carolina, South Carolina, Georgia, Rhode Island, and Maryland
45. Patrick Henry
46. United Kingdom, Canada, Australia, New Zealand, France, Russia (U.S.S.R.)
47. Alaska
48. 2
49. A civil rights leader
50. (Insert local information)
51. Must be a natural born citizen of the United States; Must be at least 35 years old by the time he/she will serve; Must have lived in the United States for at least 14 years
52. Two (2) from each state
53. Appointed by the President
54. Nine (9)
55. For religious freedom
56. Governor
57. Mayor
58. Thanksgiving
59. Thomas Jefferson
60. July 4, 1776
61. That all men are created equal
62. The Star-Spangled Banner
63. Francis Scott Key
64. The Bill of Rights
65. Eighteen (18)
66. The President
67. The Supreme Court

68. Abraham Lincoln
69. Freed many slaves
70. The Cabinet
71. George Washington
72. Hawaii
73. The American Indians (Native Americans)
74. The Mayflower
75. Colonies
76. (1) The right of freedom of speech, press, religion, peaceable assembly and requesting change of government.

    (2) The right to bear arms (the right to have weapons or own a gun, though subject to certain regulations).

    (3) The government may not quarter, or house, soldiers in people's homes during peacetime without the people's consent.

    (4) The government may not search or take a person's property without a warrant.

    (5) A person may not be tried twice for the same crime and does not have to testify against him/herself.

    (6) A person charged with a crime still has some rights, such as the right to a trial and to have a lawyer.

    (7) The right to trial by jury in most cases.

    (8) Protects people against excessive or unreasonable fines or cruel and unusual punishment.

    (9) The people have rights other than those mentioned in the Constitution.

    (10) Any power not given to the federal government by the Constitution is a power of either the state or the people.
77. The Congress
78. 15th, 19th, 24th, 26th
79. Abraham Lincoln
80. 1787
81. The Bill of Rights
82. For countries to discuss and try to resolve world problems; to provide economic aid to many countries.
83. In the Capitol in Washington, DC
84. Everyone (citizens and noncitizens living in the U.S.)
85. The Preamble
86. Obtain federal government jobs; travel with a U.S. passport; petition for close relatives to come to the U.S. to live
87. The right to vote
88. The place where Congress meets
89. The President's official home
90. Washington, DC (1600 Pennsylvania Avenue, NW.)
91. The White House
92. Freedom of speech, press, religion, peaceable assembly, and requesting change of the government
93. The President
94. George Washington
95. November
96. January
97. There is no limit
98. There is no limit
99. Democratic and Republican
100. Fifty (50)

The Bill of Rights

Description of the Unit

This unit begins with a review of the first ten amendments to the U.S. Constitution, the Bill of Rights, and the fourteenth amendment. Two versions of the amendments are supplied, one that is simplified. Students learn new vocabulary, paraphrase, and explain amendments to other students. Finally, students apply the amendments to hypothetical situations.

The Bill of Rights

Lesson 1: Introduction to the Bill of Rights

Objectives

- Students will read and analyze the first ten amendments to the U.S. Constitution, and the fourteenth amendment.
- Students will explain the meaning of some amendments to other students.
- Students will listen to other students explain amendments.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of the handout — Bill of Rights (either of the two versions).

Vocabulary

- **Bail** — (8th amendment) an amount of money determined by the judge and paid to the court clerk to allow release from jail before trial. The money is paid as security to ensure that the defendant will appear in court at a specific time. The money is returned if the defendant comes to court as schuduled.
- **Capital crime** — (5th amendment) one for which the death penalty could be imposed. Murder is a capital crime.
- **Indictment** — (5th amendment) written accusation charging that a person or business has committed a crime. (In Washington State the charging document is called an information.)
- **Persons ... naturalized** — (14th amendment) the process by which a person not born in the U.S. becomes a citizen of the U.S.
- **Probable cause** — (4th amendment) reasonable cause, or a reasonable belief that a crime is being or has been committed.
- **Prosecute** — the act of the state to bring criminal charges against a person accused of a crime.
- **Warrant** — (4th amendment) paper signed by a judge giving permission to take some action, such as an arrest or a search. Probable cause is required to issue a warrant.

Procedures

■ Tell students that you will now be focusing on the Bill of Rights, which are the first 10 amendments to the Constitution. They will also learn about the 14th amendment, probably the most important of the amendments since the original ten.

■ Write the word "rights" on the board, and ask students what this word means to them. *(Something you can do without getting into trouble, something you can insist on doing.)* Ask for some examples of rights we have as residents of the U.S. *(Free speech, jury trial, to be informed of charges against you if arrested, freedom of religion, etc.)*

■ Pass out the Bill of Rights, (either the paraphrased, simplified list of the Bill of Rights and the 14th amendment or the full text.) Use the "jigsaw" method to help students familiarize themselves with the 11 amendments. Divide students into approximately five groups, with each group assigned two or three amendments. Tell each group to read their amendments and decide on the meaning. Tell them to discuss and plan how to teach about their amendment to others. Give the groups 25 minutes to prepare. (Depending on the level of your class, you may want to spend the rest of the period in the small groups, and wait for the next class to complete the next phase of the lesson.)

■ Reconfigure the groups so that one person from each original group joins a new group, so that each new group has one member from each of the original groups. (One way to do this is to have the groups number off, then put all 1's together, etc.) You will now have an "expert" on every amendment in each new group.

■ Allow students 25 to 30 minutes to teach their group about their amendment. Each student should have about 5 minutes.

■ Ask, do they have rights in this country they did not have in their native country — or rights there they do not have here? Discuss.

■ Tell students that next time, a judge will visit the class and discuss the Bill of Rights with them further.

Bill of Rights and Fourteenth Amendment, U.S. Constitution (1787)
Abridged

First Amendment
Congress cannot establish a state religion. Congress cannot tell us how we must worship or what church to attend. Congress cannot limit our right to speak freely. Congress cannot limit the press from publishing. Congress cannot prevent people from meeting peacefully. Congress cannot prevent people from asking the government for relief from unfair treatment.

Second Amendment
Congress cannot limit people's right to bear arms.

Third Amendment
Congress cannot force people to take soldiers into their homes.

Fourth Amendment
The government may only do reasonable searches and seizures. Generally, the government must have a search warrant before they search or seize property, or arrest people in their homes.

Fifth Amendment
A court cannot prosecute a person twice for the same crime. A person cannot be forced to testify against himself/herself. No person's life, liberty and property are subject to the uncontrolled power of the government. The government cannot take a person's property for highways, schools, and other public facilities without fair payment.

Sixth Amendment
A person accused of a crime must have a prompt, public trial by an open-minded jury.

Seventh Amendment
When more than $20.00 is in question, people may have a jury trial for non-criminal (civil) problems.

Eighth Amendment
Bails, fines and punishments must be fair and civilized.

Ninth Amendment
Just because a right is not listed in the Constitution does not mean it is not protected.

Tenth Amendment
The states or the people keep all the powers not given to the national government.

Fourteenth Amendment
All people born or naturalized in the U.S. are citizens. No state can make or enforce a law that limits the rights of residents; states may not take life, liberty or property away from residents without a fair hearing; states must give all its residents equal treatment.

Bill of Rights and Fourteenth Amendment, U.S. Constitution (1787)
Full text

First Amendment
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Second Amendment
A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

Third Amendment
No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Fourth Amendment
The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Fifth Amendment
No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Sixth Amendment
In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Seventh Amendment
In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

Eighth Amendment
Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Ninth Amendment
The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Tenth Amendment
The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Fourteenth Amendment
Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Bill of Rights

Lesson 2: Applying the Bill of Rights

Objectives

- Students will read hypotheticals and discuss with one other student which amendment applies.
- Students will report their answers to the rest of the class and explain their answers.
- Students will discuss the Bill of Rights with a judge.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Which Right Applies?

Procedures

■ Begin the class by introducing yourself to the students, and telling a little bit about what you do, if this is your first class.

■ Ask students what they know about the Bill of Rights. Point out that our Bill of Rights restricts the government's power, rather than requires the government to do things for the people. Compare this to constitutions in many other countries, which affirmatively require (at least on paper) the government to provide housing, medical care, etc. for the citizens.

■ Ask students: How is the Bill of Rights enforced? *(In the courts. Citizens can bring lawsuits to enforce their rights. If the court finds that the individual's rights were violated, the court can order the government to stop the action. For example, if you feel that you are discriminated against because of your race, you can complain to a court and ask the court to protect you from discrimination.)*

(You can also raise Constitutional rights in defense if you are prosecuted for doing an action you are protected to do by the Constitution. For example, the individual who was prosecuted for burning an American flag raised his first amendment right of free speech in defense.)

Point out that sometimes the existence of a right requires the government to take action. For example, the sixth amendment right to a trial in a criminal case requires the government to provide courtrooms, judges, and juries.

■ Give each student a copy of the handout, some hypothetical situations about the Bill of Rights. Tell students to work with one other person, and decide which right would apply in each situation. Give students 10 minutes to work. Circulate around the room, and be available for questions, but do not interrupt students as they are working.

■ When students have completed the hypotheticals, ask for a volunteer to read each one, and tell which amendment they think applies.

Information about the hypotheticals:

1. The police come into Mai's home without her permission and search her bedroom for stolen property.

JUDGE'S LESSON

The 4th amendment prevents the government from searching areas that fall within a legitimate expectation of privacy (the home is the most private area) unless the police have sufficient information before the search to obtain a special court order called a search warrant.

2. Carlos makes a speech on the street, criticizing the government of his native country.

   The 1st amendment permits open debate and critical speeches. Only if Carlos is blocking the street or inciting a sympathetic crowd to commit an immediate lawless action could his speech be stopped.

3. Tina is arrested for shoplifting. She does not want to testify at her trial.

   The 5th amendment says that Tina cannot be required to testify at her trial. The government is required to prove its case without the assistance of the defendant. If Tina does choose to testify, she must answer the government's questions.

4. Nai, an alien, wants to purchase a gun to protect himself.

   2nd amendment. Explain to students that aliens are not allowed to possess firearms without a license. Nai will be deported if he is convicted of possession of any type of firearm without a license.

5. Marquita wants to attend church on Sundays.

   The 1st amendment prohibits the government from restricting religious practice. If religious practice conflicts with some other societal value, in some cases, the government can restrict the practice — e.g., bigamy.

6. Du is arrested for selling crack cocaine. He wants a lawyer to represent him.

   The 6th amendment applies here. If Du is an alien and he is found guilty of selling drugs, he will be deported. As an alien, Du is entitled to all of the privileges accorded any criminal suspect. For example, Du is entitled to have a lawyer represent him and defend against this charge. If he is unable to afford a lawyer, the state must appoint one to represent him.

   [Should it come up, explain that immigration proceedings to determine whether a person may enter the U.S. ("exclusion") or stay in the U.S. ("deportation") are considered civil, not criminal, in nature. The U.S. Supreme Court has declared that deportation proceedings are not subject to the constitutional safeguards given to criminal proceedings — e.g., no Miranda warnings or attorney at government expense.]

7. Kat applies for a job. The employer tells her he does not hire any "foreigners."

   The 14th amendment (and federal civil rights laws against employment discrimination) prevents discrimination against persons on the basis of national origin.

■ Explain to students that the majority of the rights guaranteed in the Constitution protect both lawful and unlawful aliens who are in the U.S. However, as you pointed out in the hypotheticals, a few of the rights guaranteed in the Constitution apply only to citizens. Ask if they know what some of those are. Only citizens have the right to vote or to hold public office. Aliens are not entitled to all public benefits that are available to citizens. (This is a very complicated area, and any questions should be referred to an immigration law specialist.)

Tell students that aliens can also be deported if they are convicted of certain crimes, including:

- Crimes of moral turpitude committed within 5 years after the alien's entry into the U.S. for which the alien is sentenced or serves at least

one year. Examples of crimes of moral turpitude include theft, sex offenses, infliction of serious bodily injury, blackmail, forgery, larceny, smuggling of aliens.

- Multiple (two or more) criminal convictions committed at any time. This is similar to the previous ground, but the 5-year time limitation does not apply.
- Aggravated felonies committed at any time after entry. Examples of aggravated felonies are murder, any drug trafficking crime, illicit trafficking in any firearms, money laundering, or any crime for which the term of punishment imposed is at least 5 years.
- A conviction of any law relating to controlled substances except a single conviction of simple possession of less than 30 grams of marijuana. Drug abusers and addicts are also deportable.
- Firearms convictions. Even a minor firearm conviction can make a alien deportable.

■ Describe the role a judge plays when a person files a lawsuit claiming a violation of constitutional rights.

■ Finally, conclude the class by summarizing, making these points:

- All individuals in this country have rights protected by the U.S. Constitution, even noncitizens.
- These rights are real, and are actually enforceable.

■ End by asking students if they have additional questions.

Which Right Applies?

Read the following sentences. Which amendment would apply in each case?

1. The police come into Mai's home without her permission and search her bedroom for stolen property.

2. Carlos makes a speech on the street, criticizing the government of his native country.

3. Tina is arrested for shoplifting. She does not want to testify at her trial.

4. Nai, an alien, wants to purchase a gun to protect himself.

5. Marquita wants to attend church on Sundays.

6. Du is arrested for selling crack cocaine. He wants a lawyer to represent him.

7. Kat applies for a job. The employer tells her he does not hire any "foreigners."

Courts and Justice

Description of the Unit

This unit begins with an examination of students' attitudes about courts in general. Through a word association exercise, students circle words that they associate with courts. It is expected that most of these attitudes will have been formed by students' experiences in their country of origin. Next, students examine the ideal of Justice in Western culture by analyzing a picture of the goddess of Justice. Students are encouraged to discover and report on the symbol of Justice in their country of origin. The judge introduces them to the adversarial and inquisitorial systems of law, teaching them that the United States uses the adversarial system. Students are encouraged to discover and report on the nature of the legal system in their country of origin.

Courts and Justice

Lesson 1: Attitudes About Courts and Justice

Objectives

- Students will explore their personal attitudes about courts and justice.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of the handout — Court Association.

Vocabulary

- **Adversarial** means fighting. A legal system that decides what is true by having each side fight for its side and an uninvolved person (the judge or jury) decides.
- **Appeals courts** review the decisions of trial courts.
- **Bailiff** keeps order in the court and is responsible for the jury and prisoners while they are in court.
- **Defendant** is the person who is sued in a civil case or charged with a crime.
- **Federal courts** are courts established by federal law to decide cases involving federal laws or people of different states.
- **Jurisdiction** is the authority of a court to hear a specific case.
- **Mediation** uses a neutral person to help people solve their own problems.
- **Perjury** is a crime committed when one knowingly lies under oath.
- **Plaintiff** is the person who brings a civil case in court.
- **State courts** are courts established by state law to decide cases involving citizens of its state.
- **Trial courts** decide the facts of a case based on evidence and written information.

Procedures

■ Tell students that today's class will introduce the concepts of courts in America. Later, students will look at the federal and state court systems and students will be able to identify which courts hear which cases.

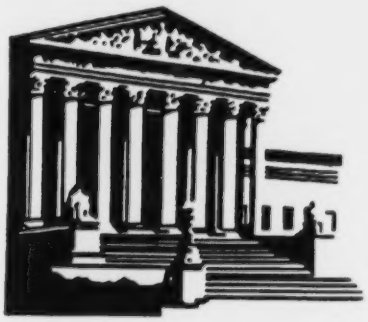
■ Ask students to look at the word list on the Court Association handout. Go through the word list defining all the terms that students do not know. Ask students to circle the words that they associate with "courts." This exercise will set the stage for a discussion of the role that courts play in America and in their home country. Students may be assigned to work in pairs to complete this exercise, allowing students to help each other understand what is meant by specific terms.

■ Debrief the exercise by getting the students to tell you what words they circled and why. Pay attention to their responses to words like "injustice," "political influence." Ask students to describe what the courts were like in their home country.

■ Acknowledge to students that in many countries how courts decide cases is controlled by the government, and that decisions may be the result of bribery, corruption or political influence.

■ Explain that in America, the courts are designed to be an independent branch of government. Acknowledge that in some cases there are judges who take bribes or are persuaded by political influence, but that, in general, courts make independent determinations based on the evidence presented in court. Recent studies in Washington State have also indicated what is probably true in other states that one's gender and race also have an impact on the way a case is decided.

What Do You Think?



Directions: Circle all the words that you associate with "courts."

Courts

Fair	Lawyers
Bribery	Jury
Elections	Perjury
Injustice	Guilty
Witnesses	Not Liable
Arguments	Plaintiff
Racism	Defendant
Sexism	Criminal
Money	Civil
Political Influence	Truth
Jurisdiction	Adversarial
Review	Bailiff
Appeal	Mediation

Courts and Justice

Lesson 2: Symbol of Justice in Western Culture

Objectives

- Students will be able to analyze the symbol of justice in Western culture and compare that to the symbol of justice in their home country.
- Students will identify that the American justice system is based on the adversarial process.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — Justice Symbol.

Vocabulary

- **Justice** is fairness.

Procedures

■ Pass out the Justice Symbol handout, a picture of the goddess of justice. Tell students that this picture is a symbol of Justice in Western culture. Ask students to examine this picture. Have students identify what they see and what this tells them about the ideal concept of justice in Western culture.

■ Students should note that for centuries Western cultures have personified the ideal judge as a goddess. She has been shown with scales and a sword. Additionally, during the last four hundred years, justice has a blindfold. [Taken from Judith Resnik, "Managerial Judges," 96 Harv. L. Rev. 376 (Dec. 1982).]

Answer to the Justice Symbol Handout:

1., 2. The goddess herself—aloof and stoic—represents the physical and psychological distance between the judges and the parties to the suit. Sometimes described as a virgin, Justice is unapproachable and incorruptible.

The scales reflect evenhandedness and absolutism. The symbolism of the scales expresses a deep-rooted tendency to see no shades between black and white, to admit no degrees of right and wrong, to allow no distribution of loss and gain among several litigants, to send a party away either victorious or defeated. [Quoted from Daube, "The Scales of Justice," 63 Jurid. Rev. 109 (1951) in Resnik, above.]

The sword is a symbol of power, and like the scales, executes decisions without sympathy or compromise.

Finally, the blindfold protects Justice from distractions and from information that could bias or corrupt her. Masked, Justice is immune from sights that could evoke sympathy in an ordinary spectator.

3. Students should describe the symbol for justice from their home country and how that contrasts to this picture.

■ Explain to students that the robes of the judges and the title, "Your Honor," in American court-

rooms all serve to remind the persons in court and the judge that judges are separated from the persons in court. The United States uses the *adversarial* method, which emphasizes judges' distance from the persons in court and to show that the judge is not biased for or against any of the parties to the lawsuit.

Tell students that later lessons will focus on the adversarial system and the role of the attorneys in that system.

Symbol of Justice in Western Culture

1. Look at the picture of Justice. What do you notice?
2. What does this say about the Western concept of justice?
3. Was there a symbol of justice in your home country? If so, how is it like or different from this Justice?

Courts and Justice

Lesson 3: The Adversarial System

Objectives

- Students will identify that the American justice system is based on the adversarial process.
- Students will be able to name two characteristics of the adversarial system.
- Students will identify benefits and drawbacks of the adversarial system.
- Students will consider alternatives to the adversarial system.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of the handout — The Two Legal Systems.

Vocabulary

- **Adversarial system** — A legal system where truth is decided by each side fighting like opponents before a neutral judge.
- **Inquisitorial system** — A system of determining the truth that relies on the judge to investigate the case and call and question the witnesses and parties.

Procedures

■ Greet the class and tell them a little about yourself if this is the first time that you have met. Tell students that today they will compare the two major justice systems in Western culture: the adversarial system used primarily in Britain and the United States and the inquisitorial system used in France and Germany. Many countries, such as Vietnam, have a combination of the adversarial and inquisitorial systems.

■ Pass out the Two Legal Systems handout and have students read the facts. After ensuring that students understand what happened, have them read aloud what would happen in Country One and Country Two. Ask students the questions that follow.

Answers to the Two Legal Systems Handout:

1. In country one, the judge has much greater responsibility for investigating the facts and making the decision. Lawyers are like helpers for the judge. In country two, the investigation of the facts is up to the lawyers. The judge is more passive, accepting what the facts are as developed by the lawyers.
2. This is a matter of opinion. "Any conclusion about which model is more effective is likely to reflect a cultural bias rather than a tested hypothesis." [Martin Marcus, "Above the Fray or Into the Breach," 57 Brooklyn L. Rev. 1193 (Winter 1992).]
3. Students will report how their system was like or different from this system. As an extension activity, students may be assigned to question members of their ethnic community about how their courts worked.

JUDGE'S LESSON

■ Tell students that Country One is an example of the inquisitorial system, used in France and Germany. Country Two is an example of the adversarial system, used in the U.S. and Britain.

The underlying concept of the adversarial system is that the best way to get to the truth is to allow all of the competing sides to present their views to an impartial person as adversaries or opponents. The adversaries must fight for their client under rules that permit the evidence to be presented fairly and in an orderly fashion.

■ Tell students that the adversarial process has been criticized. To the general public, it may look like game playing. People have said that the adversarial system results in people not taking responsibility for their actions—they lost because they did not have a skilled lawyer and not because they committed a wrong.

If you feel comfortable expressing your own opinion, you might state what system you prefer and why.

■ Students can be assigned to find out what the system was like in their home country. Many countries, such as Vietnam, have a hybrid system with characteristics of both the adversarial and inquisitorial systems.

■ Despite its critics, the adversarial process is here to stay for the foreseeable future.

The Two Legal Systems

The Facts

The police arrest Jean. Jean is charged with kidnapping. The government claims that Jean captured a corporation executive. The government says that Jean demanded money from the corporation in order to release him. The police find the executive in Jean's apartment.

Country One

In one country, the judge in Jean's case would investigate the facts. The judge would also decide with what crime to charge Jean. During the trial, the judge would question Jean and the witnesses. The lawyers for Jean and the government would suggest questions for the judge to ask. The judge would decide whether or not Jean was guilty.

Country Two

In another country, the lawyer for the government and the lawyer for Jean would investigate the facts. Each lawyer would call its own witnesses. Each lawyer would question very carefully the other side's witnesses. The judge would not know much about the case before trial. The judge would supervise the presentations of the lawyers. The judge makes sure the trial is fair. The judge would tell the jury what law to use. The jury would decide whether or not Jean was guilty. In some cases with no jury, the judge would decide whether or not Jean was guilty.

1. What are the differences in how the case is handled in country one and country two?

2. Which system seems more likely to get a just outcome?

3. What system did your home country use?

Lawyers

Description of the Unit

Students will examine their attitudes toward lawyers in America and in their native country. They will learn when the Constitution requires that lawyers be provided in the American legal system. They will also explore what situations might require a lawyer in the United States. They will explore how to hire a lawyer in America and what can be done if their lawyer is negligent. Students will interview a judge to explore what questions to ask a lawyer prior to hiring a lawyer. Students will step into the perspective of a criminal defense attorney through an actual interview with a public defender.

Lawyers

Lesson 1: Finding a Lawyer

Objectives

- Students will identify the role of attorneys in the American adversarial system.
- Students will be able to list the rights to a lawyer in the U.S. Constitution.
- Students will identify at what point indigent criminal defendants are entitled to a free attorney.
- Students will understand that they must generally pay for their own attorney in civil cases.
- Students will identify legal services resources that may help them if they are poor.
- Students will understand how to find an attorney.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

Two 50-minute class periods.

Materials

Copies of handout — Do You Need a Lawyer?

Vocabulary

- **Client** is a person who hires a lawyer.
- **Due process** is fair treatment from the government.
- **Felony** is a crime that can be punished with one year or more of prison.
- **Lawyer** is a licensed professional who handles the rules that define rights and duties among people and organizations. Lawyer, counsel, and attorney mean the same.

Procedures

■ Tell students that Americans make lots of jokes about lawyers, in which they call them sharks and other nasty things. What does it say about American attitudes about lawyers? Do people have this attitude about lawyers in your native country?

■ Tell students that in 1960 in America, there were 285,933 lawyers. One out of every 627 persons was a lawyer. In 1988, there were 723,189 lawyers in America. One out of every 339 persons was a lawyer. There are many theories about why America has so many lawyers and whether or not this is good or bad.

■ Ask students if they ever had to use a lawyer in their native country. How did they choose which lawyer to use? Did the client always have to pay the lawyer? Did the government ever provide lawyers for free?

■ Write on the board:

	Criminal Case	*Civil Case*
Have $	You pay	You pay
Don't Have $	Government pays	You pay, unless government-funded services are available

■ Explain that when persons in the United States are charged with a crime or juveniles are charged with an offense, the government will pay for a lawyer to represent the defendant if the person has no money. Students may be referred to the Sixth Amendment of the U.S. Constitution to read that a person has a right to counsel. (Counsel, lawyer and attorney are interchangeable terms.)

Through interpretations by the U.S. Supreme Court, this right means that persons charged with a crime for which there is a possibility of jail time have a right to a lawyer paid for by the government if they cannot afford to pay for one.

■ For civil cases, in which a person or organization has a dispute with another, the government generally does not provide free lawyers. For instance, if you are sued in an automobile crash, the government will not provide you with a lawyer. You (or your insurance company) must get your own lawyer.

■ The government does pay for lawyers to help poor persons in some areas of civil law.

Note: Selected financial eligibility guidelines established by the Legal Services Corporation, effective April 1994, are reported so that the teacher can give students an idea whether or not they might qualify for free legal services.

# OF PERSONS DEPENDENT UPON INCOME	GROSS WEEKLY INCOME	GROSS MONTHLY INCOME	GROSS YEARLY INCOME
1	$177	$767	$9,200
2	237	1,025	12,300
3	296	1,283	15,400
4	356	1,542	18,500
5	415	1,800	21,000
6	475	2,058	24,700
7	535	2,317	27,800
8	594	2,575	30,900

■ Tell students that there is greater demand on these legal services than the lawyers can meet. Many qualified persons will not be able to get free legal services. Persons who qualify in need of legal services can report to the legal services office and through an interview determine whether or not they will receive free counsel.

Your State

What are the free legal services available in your state?

What services do your state and local bar associations provide, including referral, discipline of lawyers?

■ Identify some examples of legal services organizations that provide free services in civil cases. Evergreen Legal Services is the largest government funded legal services organization in Washington State, serving an estimated year-round poverty population of about 447,424 in 31 of the counties in Washington. It serves about 100,000 migrant workers, a substantial Native American community and institutionalized poor people.

Evergreen Legal Services helps with problems relating to welfare, public medical benefits, food stamps, public housing, private landlord-tenant disputes, domestic violence, special education programs, utility rates, and with many other kinds of legal problems. It has special projects to represent people in state institutions, Native Americans and farm workers.

The Northwest Immigrant Rights Projects provides free legal services to qualified individuals to handle immigration issues.

Additionally, other organizations serving the poor and unrepresented include the Fremont Public Association, Legal Action Center, the Disabilities Law Project, the Unemployment Law

Project, University Legal Assistance (Spokane), Seattle Indian Center, Asian Counseling and Referral, El Centro de la Raza, Washington Protection and Advocacy, Consejo Counseling, Seattle Tenant's Union, Seniors Rights Assistance, Disabled American Vets, Sea Vac, the Young Lawyers Division of the Seattle-King County Bar Association which operates ten free legal clinics, and numerous organizations serving victims of abuse and domestic violence.

■ For persons of moderate means, the Bar Association has operated a Lawyer Referral Service since 1962. This service helps persons who may require legal services and who do not know a lawyer in their area. The State Bar operates this service in all counties except for King, Pierce, Thurston, Mason, and Spokane Counties. The local bar associations in these five counties operate their own lawyer referral service.

To use the service, an individual calls the State Bar Lawyer Referral desk (206-727-8200) and is then referred to an attorney in his or her county for a one-half hour consultation. A small fee is charged for the referral.

Lawyers agree the best way is to get a referral from a trusted friend with experience.

■ Tell students that laws and procedures in American are generally very complicated and many situations require a lawyer.

■ Pass out the handout and ask students whether or not they think that a lawyer is needed.

■ Answers to the "Do You Need a Lawyer?" handout:

1. There will probably be two different court cases: a criminal one for vehicular homicide and a civil one for the injuries that Tom caused. Tom will need a different lawyer for each case.

   If Tom has insurance, the terms of his insurance contract will determine whether or not the company will pay for a lawyer for the civil lawsuit. If he does not have insurance or if the contract does not provide for an attorney under these circumstances, he must hire his own lawyer for the civil suit. He must pay his own lawyer for the criminal lawsuit unless he cannot afford one.

2. Tinh probably does not need a lawyer to buy a house. If Tinh does not speak good English, she should have a friend experienced with home buying who speaks English help her. If she did hire a lawyer, Tinh must pay.

3. Vena needs some good information about the laws of the state and international import laws. She may be able to find out what she needs to know from governmental agencies. If she hires a lawyer, she will pay.

4. Mark's son needs a lawyer. If he and his parents cannot afford to pay, the government will pay for the lawyer.

5. Maria generally does not need a lawyer. The government's lawyer, called the prosecutor, will bring the criminal case against her husband. The prosecutor, however, does not represent Maria. The clerk of the court can help Maria file papers to keep her husband away from her. If Maria gets divorced, she will probably need a lawyer. Maria will pay for her lawyer.

6. John does not need to hire a lawyer to buy a car. John should be sure to understand the contract, however, before signing. If he hired a lawyer to review the contract, John would pay.

7. They probably each need a lawyer. Generally, each will pay for his or her own lawyer. In some cases, the spouse with more money pays for the other's lawyer.

8. Maureen will need a lawyer. She will pay her attorney.

9. Tran needs a lawyer. He will pay for the lawyer. This type of case is generally paid through a contingency contract. Tran would pay the court costs and fees and the lawyer will take a percent of the money that the lawyer wins for Tran. If the lawyer does not win the case, Tran will not have to pay for the lawyer's time.

10. Dee does not need a lawyer at this point. Dee should complain to the neighbors first. If nothing is done Dee should call the animal control unit of the local government. If Dee hired a lawyer, Dee would pay.

11. Vinnie may need a lawyer. Since Vinnie has low income, she can request that a free legal services lawyer help her.

12. Henry does not need a lawyer immediately, unless some significant injury was caused. He should complain to the Chief of Police and report the incident. If he hires a lawyer, Henry will pay.

13. Generally, it is best to have a lawyer draft a will. They will pay for the lawyer.

14. Genie needs a lawyer. She should request free legal services to help her.

Do You Need a Lawyer?

1. Tom is drunk. He hits another car with his car. He kills the driver. Does Tom need a lawyer? If yes, who will pay?

2. Tinh wants to buy a house. She needs to borrow $50,000 from the bank. Does Tinh need a lawyer? If yes, who will pay?

3. Vena wants to start her own import shop. Does Vena need a lawyer? If yes, who will pay?

4. Mark's 14-year-old son is charged with carrying a gun. Does Mark's son need a lawyer? If yes, who will pay?

5. Maria's husband has been arrested for domestic violence. Does Maria need a lawyer? If yes, who will pay?

6. John is buying a car. Does John need a lawyer? If yes, who will pay?

7. Francois and Nicole are getting a divorce. They have two small children and own their home. Do they each need a lawyer? If yes, who will pay?

8. Maureen has lost her job because she is pregnant. To get her job back, does Maureen need a lawyer? If yes, who will pay?

9. Tran's grandfather died at the hospital. The doctor's gave him the wrong medicine. Does Tran need a lawyer? If yes, who will pay?

10. Dee's neighbors have three large dogs that always bark. Dee walks to the bus stop each morning. The dogs are frequently loose in the street. Dee is afraid that the dogs will bite her. Does Dee need a lawyer? If yes, who will pay?

11. Vinnie gets food stamps from the government. One month, the government clerk tells Vinnie that she can no longer get food stamps. The clerk gives no reason. Does Vinnie need a lawyer? If yes, who will pay?

12. Henry was stopped by the police. He feels that the police harassed him. Does Henry need a lawyer? If yes, who will pay?

13. Judy and John want to write a will. Do they need a lawyer? If yes, who will pay?

14. Genie and her family live in a government apartment. They stopped paying rent when the hot water stopped. Now they are being evicted. Do they need a lawyer? If yes, who will pay?

Lawyers

Lesson 2: Hiring a Lawyer

Objectives

- Students will understand how to find a lawyer.
- Students will know the types of fee structures used by attorneys.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

Two 50-minute class periods.

Materials

Copies of the handout — Interviewing the Lawyer.

Vocabulary

- **Contingency fee** is one way to pay an attorney. The attorney agrees to be paid only if the case is successful. Certain cases cannot be handled by a contingency fee, including dissolution (divorce). The client still pays for costs charged by the court.
- **Flat fee** is a fixed cost for a service decided at the beginning.
- **Retainer** is a sum of money paid to an attorney at the beginning of a case to pay costs and the lawyer's charge. Once the money is spent, the lawyer will request additional funds if the case is not completed.

Procedures

■ Brainstorm with students how they would find a lawyer if they needed one in America.

Students might suggest getting a referral from a trusted friend or community resource person; applying to legal aid if their problem is a civil case, looking up "lawyers" in the Yellow Pages; calling the Washington State Bar Association for a referral; or answering an advertisement. Most public libraries have the Martindale-Hubble Law Directory that lists most lawyers in the United States, their training, honors and types of cases they handle.

■ Pass out the Interviewing the Lawyer handout. Have students read the problem out loud. Make sure students understand the facts.

■ Explain how lawyers charge for their services. Generally, lawyers charge by the hour. Fees may range from $50 to $300 and more per hour, depending on the location, experience, and qualifications of the lawyer.

Lawyers charge a flat fee in some types of cases. This means that you know at the beginning exactly how much the lawyer will charge. For example, a lawyer that charges $250 to write a will is charging a flat fee.

Lawyers use a contingency fee arrangement in certain types of cases, generally personal injury cases such as auto accidents. This means the lawyer takes a percentage of the money awarded to you. In these cases, lawyers are only paid if they do win the case. Clients must still pay for court costs and expenses, however.

Lawyers many times require the client to pay a retainer. This is a down payment from which the

hourly fees and court costs are deducted. When the retainer is spent, the lawyer will request additional funds if the work is not yet completed.

For people who live at or below the federal poverty levels in Washington, there are three publicly-funded legal services programs. Lawyers work on a salary and are not paid by the client. In some cases, though, the client must pay for court costs.

■ Brainstorm with students what they should ask of a lawyer they are considering hiring. Tell students to consider taking a friend with them to the meeting with the lawyer to help communicate their needs.

■ Have students work in pairs to develop questions for the lawyer in the Interviewing the Lawyer handout. Let them practice the roles.

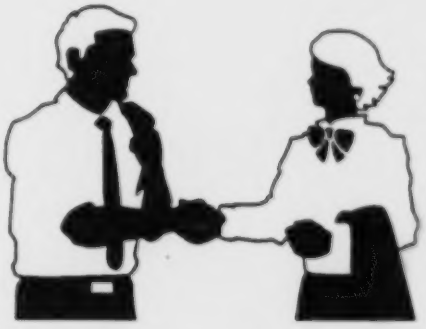
■ Students should ask these types of questions:

- How do I pay? What will the lawyer charge for the case? Am I required to pay a flat fee or by the hour? Lawyers in a dissolution generally charge by the hour. If a lawyer charges by the hour, will I have to put up a sum of money before the lawyer starts working? Will the lawyer use a contingency fee arrangement?
- Will the agreement be written out? What is it that the lawyer is agreeing to do? How often will I get a bill? Will the lawyer tell me if the fee is going to go above a certain amount?
- Has the lawyer ever had a case like this before? What happened?
- Will the lawyer give me copies of all the papers in the case?
- Will the lawyer talk to me in ways I can understand?
- Will the lawyer need to use an interpreter? Who will pay the costs of an interpreter?
- What will the lawyer do? What does the lawyer think of my chances for success?
- What does the lawyer need from me?

■ Tell students that in the next class, one pair of them will have a chance to role-play this interview.

■ Alternatively, you may want to invite a lawyer into the classroom and role-play the interview. Or you might arrange for a conference call between a practicing attorney and the class to conduct the role-play over the telephone.

Interviewing the Lawyer



You had $10,000 to invest in a business. A friend of yours proposed that you become partners. The friend said he had $10,000 to invest too. Together you decide to buy a convenience store business.

You trusted your friend. You gave your $10,000 to him. He signed a receipt for the money. He now refuses to talk to you. You see a lawyer about helping you get your money back.

What questions would you want to ask the lawyer?

Role-play this meeting with the attorney. A judge (who is also a lawyer) will play the part of the attorney.

Lawyers

Lesson 3: Interviewing a Lawyer

Objectives

- Students will know how to hire an attorney.
- Students will know how to complain about a lawyer who has been negligent.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of the handout — Interviewing the Lawyer from this unit's lesson 2.

Vocabulary

- **Attorney-client relationship** exists when a person hires a lawyer.
- **Negligent** means careless.

Procedures

■ Set up the class for the role-play in which two class members as a team will interview you with the goal of deciding whether or not to hire you for their case.

■ Role-play the interview.

■ After students have asked their questions, invite the class members to come up with other questions. Students should ask:

- How is the client expected to pay? What will the lawyer charge for the case? Is the client required to pay a flat fee or by the hour? If a lawyer charges by the hour, will the client have to put up a sum of money before the lawyer starts working? Will the lawyer use a contingency fee arrangement?
- Will the agreement be written out? What is it that the lawyer is agreeing to do? How often will the client get a bill? Will the lawyer tell the client if the fee is going to go above a certain amount?
- Has the lawyer ever had a case like this before? What happened?
- Will the lawyer give the client copies of all the papers in the case?
- Will the lawyer talk in ways the client can understand?
- Will the lawyer need to use an interpreter? Who will pay the costs of an interpreter?
- What will the lawyer do? What does the lawyer think of the client's chances for success?
- What does the lawyer need from the client?

■ After all the questions have been asked, make sure that all important questions have been asked.

■ Explain that once you hire a lawyer, that lawyer is working for you. Some things happen once the attorney-client relationship is established. The lawyer is forbidden to reveal any information that you give in confidence, unless you tell the lawyer

JUDGE'S LESSON

that you intend to commit a crime or unless you agree for the information to be revealed. The lawyer is obligated to present the best case for you within the bounds of the law.

■ Tell students that sometimes lawyers do not do a good job for their clients. If their performance is negligent or careless and the client is injured, the client may file a lawsuit against the lawyer. The client may also complain to the State Bar Association.

Your State
Who has responsibility for disciplining lawyers in your state?
What other services does the state bar have to help clients who complain about their lawyers?

Background Information on Attorney Discipline

The Washington State Supreme Court has ultimate authority for attorney discipline. The State Bar Disciplinary Board, made up of lawyers and non-lawyers, hears complaints of lawyer misconduct. The Board selects a hearing panel including a non-lawyer member, and conducts confidential proceedings. If there is a finding of "probable cause" that a lawyer has violated one of the rules of professional conduct, a formal complaint is filed. The proceeding becomes a matter of public record. Any disciplinary penalty suspending a lawyer's right to practice law is sent to the Washington State Supreme Court for approval. Only the Washington State Supreme Court can take away a lawyer's license to practice law.

Many client complaints involve conduct that is not a violation of the Rules of Professional Conduct. The state bar staff attempts to resolve these matters, like lack of communication with a client, but has no authority to cure many of the disputed situations. Call 206-727-8207.

If a client has a complaint about a lawyer's fee, the Bar Association has a voluntary fee arbitration process to resolve disputes through the use of neutral arbitrators, including non-lawyer arbitrators for disputes of more than $5,000.

The Bar Association also maintains a program for paying clients whose lawyers have stolen their money. The Client's Security Program is a voluntary effort by the Bar Association to repay in whole or part the money that has been stolen.

Lawyers

Lesson 4: Lawyers in Criminal Cases

Objectives

- Students will be able to cite the U.S. Constitutional basis for the right to an attorney in criminal cases.
- Students will examine the relationship of public defender attorneys to their clients.
- Students will also have the opportunity to speak, write, read, and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of the handout — The Interview.

Vocabulary

- **Homicide** is the killing of a human.
- **Prosecutor** is the government lawyer bringing a criminal case.
- **Public defender** is a lawyer paid on a salary by the government who represents poor defendants.
- **Restitution** is the payment of money by a criminal defendant to make up for the loss to the victim.

Procedures:

■ Tell students there are additional procedures for getting a lawyer in criminal cases. Explain that criminal cases are ones the government brings against a person to punish that person for wrongdoing. If guilty, the person may be sent to jail, made to pay a fine and/or to pay restitution, or live in the community under supervision.

■ Pass out The Interview handout. Have the class read the parts out loud. Work with students so they understand what the interview is about. This interview is modified from an interview appearing in *The Washington Post*, "What Does 'Guilty' Mean in the Split Second a Bullet Flies," 6/19/83. The interviewer is a reporter, the person being questioned is a public defender, a lawyer who receives a salary to represent defendants charged with serious crimes who are too poor to hire a lawyer.

This information was provided about the public defender, Jennifer Lyman. She is 32 and a lawyer who represents people accused of crime who are too poor to get their own lawyer. The D.C. Public Defender's Office, which she joined in 1979, has 40 such attorneys and handles 85 percent of the District's homicide defendants.

Lyman attended public school in Palo Alto, Calif. After her graduation from Yale University in 1972, Lyman worked for the Dartmouth College admissions office.

In 1975 she took a yearlong public affairs internship with the Coro Foundation that included an assignment with a criminal court witness project in Los Angeles. She later enrolled in Stanford University Law School, graduating in 1978. Felicity Barringer is a reporter on the national staff of *The Washington Post*.

■ Answers to Discussion Questions in the Interview Handout:

1. The public defender is appointed by the court. This lawyer represents criminal defendants who are too poor to hire a lawyer.
2. Ms. Lyman feels very strongly that the system should operate fairly. She believes that someone should represent criminal defendants to help put forward their side of the story in a competent way. She also likes it that her job has action, and that she is not sitting behind a desk all day. She also likes to work for a real person.
3. Ms. Lyman does not find it hard to represent criminals because she separates out in her own mind their crimes from the need to have someone stand up to the government.
4. Her clients do not generally trust her since she is paid by the same government that pays the prosecutor. They have no choice in who is their lawyer. They also find it difficult to relate to her because she is from a different environment than they are.
5. The prosecutor has the police to fight to get a conviction. Ms. Lyman is representing defendants to fight back.
6. This is an opinion question.

■ You might conclude this session by asking students for their impressions of the courts and legal process in America.

An Interview With a Public Defender

Interviewer: Have you ever been a victim of a crime?

Ms. Lyman: I haven't been the victim of serious crimes. Some of my friends have been raped and robbed.

Interviewer: How do you feel when your client is charged with rape or robbery?

Ms. Lyman: I separate these things out in my mind. I feel sorry for the victims of crimes. I do not think crime is okay. People who are accused of crimes must have someone to represent them. The government has a great amount of resources. Somebody must present the other side in a competent way. It motivates me even though some clients have done awful things.

Interviewer: Is there any trust in the relationship between you and your clients?

Ms. Lyman: The basis of the relationship is that this person is accused of a crime. They don't have enough money to hire a lawyer. The court has said, "Miss Lyman is your lawyer." They don't have too much choice. That's a problem in trust.

I spend a lot of time convincing them that I am trying to help them. I explain that I'm paid my salary whether I get them off or whether they get convicted. It's hard. Most people don't understand why I would want to do what I do.

Interviewer: Why do you want to do your job?

Ms. Lyman: That's a good question.

I do not want to sit at a desk all day. Certainly my job involves a lot of action. I find I'm much more motivated to work hard if I'm working for a person.

Interviewer: So what is the role of the public defender then?

Ms. Lyman: To protect everybody from the government's mistakes. I try to make the battle equal. The prosecutor is a lawyer backed up by the police. My client is usually a person without education. He usually has no money. He doesn't understand what's happening to him. And I'm there to present his side. There always is another side, no matter how bad the guy is.

Interviewer: How do you measure whether you've succeeded?

Ms. Lyman: Sometimes a person may feel they were treated fairly.

Interviewer: How often does that happen?

Ms. Lyman: Not most of the time.

Questions

1. What does the public defender do?

2. Why does Ms. Lyman do her job?

3. Is it hard for Ms. Lyman to represent criminals? Why or why not?

4. How do Ms. Lyman's clients feel about her as their lawyer?

5. How does her job show the adversarial system?

6. Would you like to have her job? Why or why not?

Trials

Description of the Unit

Students will learn about the nature of trials by enacting a portion of a scripted mock trial in front of a judge. Students will learn who the players in court are. Students will learn the difference between federal and state courts and the types of cases heard in each.

Trials

Lesson 1: The Trial

[This lesson is reprinted from *Chris Krafty v. Principal Gene Pool* written by Robert S. Leming and Ann E. Ray with assistance of the Eli Lilly Center for Exploration and Derrow Lee, 1991, and published by the Children's Museum of Indianapolis Program for Law-Related Education. Adaptions have been made by ICTI, in the case's presentation.]

Objectives

- Students will be able to distinguish a trial from an appeal.
- Students will have a chance to enact a portion of a scripted mock trial.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of the handout — Trial Opening.

> **Note:** Prior to the judge's coming to class, pass out the Trial Opening handout to all students and assign four of the good readers to the four speaking parts: bailiff, plaintiff's counsel, defense counsel and Chris Krafty, the witness. You may choose to set up the classroom like a court room. Have jury members set up the room so that there is a table or desk in front of the class and an area designated for the jury closest to the plaintiff's table. There should be a chair for the witness near the table/desk facing out to the class and enough room for the lawyers to stand up and move up to the witness as they read their questions. The bailiff should sit behind the judge facing out to the class.

Vocabulary

- **Bailiff** is the officer of the court who keeps order, is responsible for custody of the jury and prisoners while they are in court.
- **Burden of proof** is the obligation of the person bringing the case to put forth enough evidence to win the case.
- **Civil trial** is a case about a private injury seeking money or court orders.
- **Counsel** is an attorney; officer of the court who represents one side of the case.
- **Defendant** is the person against whom action is taken, either a civil suit or a criminal charge.
- **Exhibit** is a piece of nonverbal evidence used in a trial (e.g., knife or a written document).
- **Foreperson** is the person elected to lead the jury and report the jury's verdict (decision).
- **Interpreter** is the person who interprets the non-English statements to English and the English statements to the non-English language.
- **Judge** is the court officer whose job is to determine the law and manage the trial.
- **Jurors** are the members of the general public who are selected to hear the evidence in a trial and decide the facts of the case.
- **Plaintiff** is the person bringing the case.
- **Witness** is a person who tells the judge and jury what happened that relates to the case.

JUDGE'S LESSON

Procedures

■ Introduce yourself and tell a little about yourself if this is your first class. Tell students that they will learn about trials in American courts. Have students review each of the participants in a trial.

■ Students have been assigned to read one of the four parts: bailiff, Chris the witness and plaintiff, plaintiff's attorney, and defense attorney. The teacher will help them take their seats.

Before the trial begins, write these names on the board and explain:

- The judge is in charge of the courtroom. S/he manages the trial, decides the law, and instructs the jury. When trials have no jury, the judge decides the facts and the law.
- Chris is the plaintiff and a witness in the case. He brought the lawsuit, so he is plaintiff. He is being questioned so he is a witness.
- Chris is represented by a lawyer, the Plaintiff's Attorney.
- The Defendant (the Principal) is represented by a lawyer referred to as the Defense Attorney.

■ Have students go to their places and begin the trial.

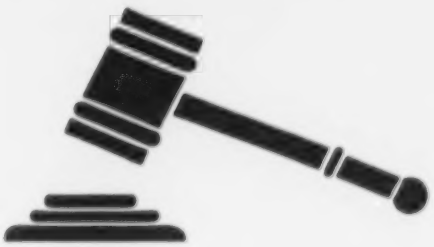
■ After the trial, you may explain to students that the scripted trial, *Chris Krafty v. George Pool* is based on the U.S. Supreme Court case of *Bethel School District v. Fraser*, 478 U.S. 675 (1986) which took place in Washington State.

■ Ask students what they noticed about American trials. The students or the judge should make these points:

- The plaintiff's lawyer goes first in American trials because the plaintiff has the burden of proving the case. In civil trials, the burden of proof is a preponderance of the evidence, just over 50%. In criminal trials, the burden is much higher—beyond a reasonable doubt, or almost 100%.
- The jury's job is to listen to the witnesses, decide whom to believe and decide what really happened. The jury also receives the law from the judge and applies it to the facts.
- Juries in civil cases may be 6 or 12 members (varies by state).
- Civil juries must agree, 5 persons out of 6, or 10 persons out of 12. Juries in criminal cases must be unanimous.
- Witnesses are questioned by attorneys on the witness stand. Witnesses are not free to just sit and talk.
- Witnesses are sworn in. If witnesses deliberately lie under oath, they can be charged with the crime of perjury.
- Witnesses must convince the jury of their truth-telling. Therefore, it is important for the witnesses to speak loudly, have eye contact with jurors and to appear believable.
- The portion of the hearing that students just presented was from a trial. A trial involves witnesses and evidence and a decision from the jury about the facts. This is different from an appeal, which is a review of the trial. Generally, the losing party may appeal the trial court's ruling only when there is a mistake of law, and not when they disagree with the way the jury decided the facts.
- The witness is asked questions by the attorney that called the witness and then by the other side's attorney. The other side wants to undermine the witness's testimony.

■ Explain to students what type of cases you hear, trials or appeals. Describe to students a recent case that might interest them, highlighting the features of a trial or appeal.

Opening of a Trial



BAILIFF: All rise. The Superior Court in the State of Washington is now in session, the Honorable Judge _____ presiding.

JUDGE: Please be seated. Is the Plaintiff ready?

PLAINTIFF COUNSEL: Yes, your Honor.

JUDGE: Is the Defense ready?

DEFENSE COUNSEL: Yes, your Honor.

JUDGE: Counselor, you may proceed with your opening statement.

PLAINTIFF COUNSEL: Your Honor, and ladies and gentlemen of the jury, my name is _____. I represent the plaintiff, Chris Krafty. I will prove that George Pool violated Chris's freedom of speech.

On April 23, Chris gave a speech at school. He supported Rico for student vice-president.

After the speech, the assembly continued. Students returned to their normal school day without a major disruption.

On the next day, April 24th, Principal Pool suspended Chris for one day. This was to punish him for the speech.

Therefore, I ask the jury to rule that Principal Pool violated Chris's freedom of speech.

JUDGE: Thank you, Counselor. The Court will now hear the Defense's opening statement.

DEFENSE COUNSEL: Your Honor, and ladies and gentlemen of the jury, my name is _____. I represent Principal George Pool. The Principal did not violate Chris's free speech. The Principal had the right to punish Chris for the speech. Chris told lies. He said insulting things about the principal and other students. Chris offended students, teachers and parents.

Principal Pool rightly suspended Chris. The Principal did not violate his free speech.

JUDGE'S LESSON

JUDGE: Thank you. Will the Plaintiff call its first witness?

PLAINTIFF COUNSEL: The Plaintiff calls Chris.

JUDGE: Raise your right hand, please. Do you affirm that you will tell the truth?

CHRIS: I do.

PLAINTIFF COUNSEL: State your name please.

CHRIS: Chris Krafty.

PLAINTIFF COUNSEL: Where do you go to school, Chris?

CHRIS: I am a senior at Wrights High School.

PLAINTIFF COUNSEL: Aren't you a good student?

CHRIS: I'm a good student. I'm on the debate squad. I plan to go to college.

PLAINTIFF COUNSEL: Did you attend the assembly at your school on April 23?

CHRIS: Yes, I attended the assembly.

PLAINTIFF COUNSEL: What did you do at the assembly?

CHRIS: I gave a speech for my best friend, Rico. He wanted to be vice-president of the student body.

PLAINTIFF COUNSEL: What was your speech about?

CHRIS: Well, I said that Rico was the best person for the office. I said that the other person who wanted to be vice-president was not trustworthy. She agreed with the Principal. The Principal censored student speech.

PLAINTIFF COUNSEL: What happened after you gave the speech?

CHRIS: Everyone clapped and cheered. We went back to our classes.

PLAINTIFF COUNSEL: Did you cause any disturbances?

CHRIS: None that I saw. Many people said it was a great speech.

PLAINTIFF COUNSEL: What happened next?

CHRIS: Principal Pool told me the next day that I was suspended from school.

PLAINTIFF COUNSEL: I have no further questions, your Honor.

DEFENSE COUNSEL: Chris, did the Principal say there were complaints from teachers, parents, and students?

CHRIS: Yes.

DEFENSE COUNSEL: And didn't the Principal also tell you that you lied? That you offended students?

CHRIS: Yes, but you see....

DEFENSE COUNSEL: Didn't you admit to Principal Pool that you deliberately said bad things in your speech?

CHRIS: Yes, I guess I did.

DEFENSE COUNSEL: After you told the principal about your bad statements, did he suspend you?

CHRIS: I guess so.

DEFENSE COUNSEL: I have no further questions, your Honor.

JUDGE: You may step down.

Trials

Lesson 2: Federal and State Courts

Objectives

- Students will identify that the United States has two court systems: federal and state.
- Students will be able to name the federal and state courts in Washington.
- Students will be able to recognize generally which types of cases are heard by which courts.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of the handouts — Court Chart and Which Court?

Vocabulary

- **Federal courts** are the courts that hear federal cases—those that involve the U.S. Constitution, federal law, or a dispute between persons of different states.
- **State courts** are courts that hear cases involving state laws and rights.

Procedures

Your State

What are the names and locations of courts in your state?

■ Pass out the Court Chart handout. Explain to students, using the chart, that the United States has two court systems: federal courts and state courts. Each court system has both trial and appeals courts. If you are working with a judge, point out the court in which your judge presides.

■ Ask students which court their mock trial would have been in. Tell students that it must have been in a trial court, one of the courts that appears below the dotted line.

■ In reality, that case could have been heard in either the U.S. District Court or the Washington Superior Court. The issue in the case was one of a U.S. Constitutional right (first amendment right of free speech). Both the state and federal courts have obligations to enforce the U.S. Constitution. Generally, however, plaintiffs choose to bring their constitutional cases in federal court.

■ Generally, federal courts will hear cases that involve (1) a federal right or federal law, or (2) a dispute between citizens of different states when the amount in dispute is at least $50,000.

■ Brainstorm a list of federal rights and laws. There are a tremendous number of federal rights and laws. Some rights or laws that students might identify are the U.S. constitutional rights (free speech, freedom from unreasonable searches, freedom of religion, etc.), laws against discrimination, setting speed zones on interstate highways, income tax, social security, medicare, bankruptcy,

regulation of Indian reservations, airports, post office, international travel, immigration law, veterans affairs, military, national security, census, customs, minimum wage, naturalization, federal crimes, antitrust, union/management disputes, and ports.

■ Generally, state courts hear disputes involving state laws and rights.

■ Brainstorm a list of state laws and rights. Again, there are a tremendous number of state rights and laws. Some that students might identify include Washington state constitutional rights, state laws against discrimination, family matters (marriage, dissolution, child custody, adoption, spouse and child abuse, emancipation), wills and inheritance, contracts, education, employment, gambling, safety and health in the workplace, liquor, lottery, state crimes, national guard, and juvenile justice systems.

■ Pass out the Which Court? handout and have students identify whether each case would likely be brought in federal court or state court.

Answers to the "Which Court?" handout:

1. John would file in state court. Contract disputes that occur between persons in the same state are heard in state court. Small claims court, a department of district court, would be his best choice. John would be allowed to present his case informally to a judge without using a lawyer. John must still prove through receipts and documents what he is claiming.
2. Javier has the choice of filing in either state or federal court. Most likely, he would choose federal court, the U.S. District Court for the district where the prison is.
3. Mary would file in state court. Superior Court has jurisdiction over domestic relations.
4. If Tina sues under the federal law against sex discrimination, she would sue in federal court. This would be the U.S. District Court. State law may also ban sex discrimination. If she sued under state law, she could use the state court.
5. Tony and Maria must file in state court. Superior Court has exclusive jurisdiction over domestic relations.
6. Tim's father's estate will go through "probate." This is handled by state court. Superior courts have jurisdiction to hear probate cases.
7. Juan would sue in federal court, as a citizen of one state suing a citizen in another. Corporations are considered citizens of the state where they are incorporated and where they have substantial business.

Background Information for Teacher on the Court Systems

Your State
What is the jurisdiction of courts in your state?

The U.S. Constitution creates a supreme court and gives the U.S. Congress the power to create lower federal courts. The U.S. Congress in turn has created two levels of federal courts: U.S. District Courts (trial courts) and U.S. Circuit Courts of Appeal (courts of appeal).

Two U.S. District Courts are located in Washington: the Western District has offices in Seattle and Tacoma, the Eastern District is located in Spokane. Decisions of these two courts can be appealed to the Ninth Circuit Court of Appeals, located in San Francisco.

The Washington Supreme Court, located in Olympia, is the state's highest court. The decisions of this court set the law for all the other state courts in Washington.

Generally, cases are appealed from Superior

Court to the Court of Appeals in the appropriate Division, and then to the State Supreme Court. Sometimes though, the case will bypass the Court of Appeals, going directly from Superior Court to the State Supreme Court. One example is cases involving the death penalty.

The State Supreme Court has nine judges. Justice James A. Andersen became Chief Justice in January 1993.

The Courts of Appeals were created in 1969 to help with the work load of the State Supreme Court. They are divided into three divisions.

Division I is located in Seattle, Division II in Tacoma, and Division III in Spokane.

These Courts of Appeals hear most cases appealed from the superior courts within their Division. Each case is decided only after a transcript (written record of everything that was said in the trial proceedings in superior court—although videotapes are now being used) is reviewed and oral and written arguments have been considered. No witnesses testify in appeals cases.

Superior Courts are found in each of Washington's 39 counties. These courts have the authority to hear all types of civil and criminal trials and to act as appeals courts for cases from district and municipal courts.

The Superior Courts hear actions, including:

- The ownership of real property (land)
- Civil cases involving value of $300
- Felony cases
- Misdemeanor cases not assigned to other courts
- Insolvency proceedings
- Nuisance actions
- Probate
- Dissolution and annulments
- Writs

The Superior Courts have several divisions, including Juvenile Court to deal with offenses committed by youth under the age of 18.

Courts of limited jurisdiction, which include district courts and municipal courts, can only hear certain types of cases. They hear a lot of those cases: more than two million misdemeanors, infractions, civil and small claims cases each year.

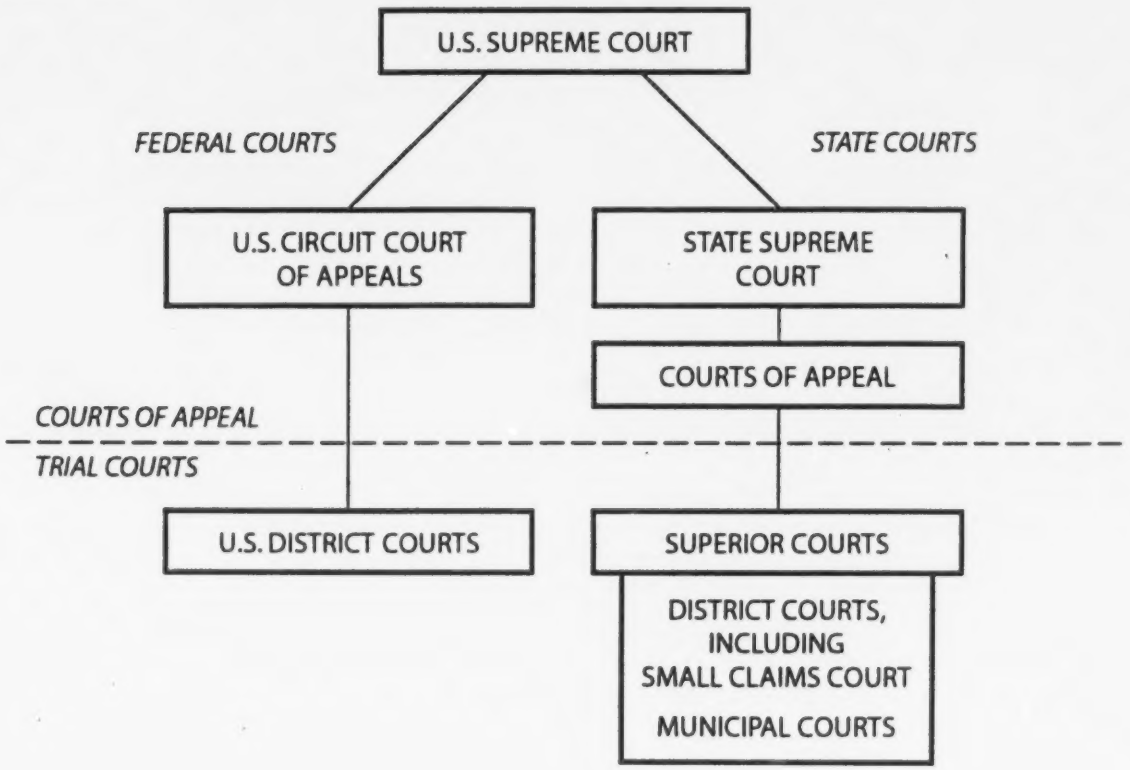
District courts can hear criminal and civil matters, including misdemeanors, gross misdemeanors, and criminal traffic violations (such as driving while under the influence of intoxicating liquor or drugs, hit-and-run, and driving with a suspended license). They also have jurisdiction in civil cases, involving personal injury, property damage, and contract disputes for amounts up to $10,000.

The Small Claims Department is limited to money claims of $2,500. These are filed and heard in district court by district court judges. People represent themselves without attorneys and witnesses generally cannot be compelled to come to court.

When individuals violate municipal or city ordinances, the cases are tried in municipal courts. Some cities contract with district courts to handle these cases.

■ Tell students that they now know more about the court system in America that most native-born citizens!

Chart of Federal and State Court Systems



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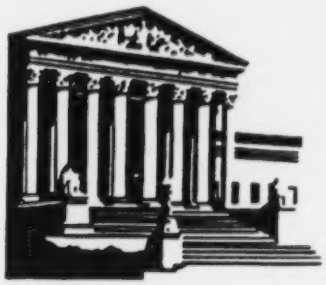
Which Court?



1. John paid $500 for a new television at the local shopping mall. The television never worked. He tried to return it. The store refused to fix or replace the television. John wants to get a court to help him get his money back. Which court should he use—state or federal?

2. Javier, a prison inmate, was beaten up by prison officers. He believes his federal constitutional rights were violated. Which court should he use—state or federal?

3. Mary has a husband who beat her. She wants a court order to keep her husband away from her. Which court should she use—state or federal?

4. Tina has a job. Her boss said that if Tina would have sex with him, Tina could get a raise in her salary. Tina said no. Tina wants to sue for sexual harassment. A federal law makes sexual harassment illegal. Which court should she use—state or federal?

5. Tony and Maria are getting a divorce. Which court should they use—state or federal?

6. Tim's father died in Washington state. Tim's father wrote in his will that the house would go to Tim after his death. Tim wants to move into this house with his family. What court does he use—state or federal?

7. Juan wants to sue a company in another state for violating a contract. Juan says the company owes him $100,000. What court does he use—state or federal?

The Jury

Description of the Unit

Students will explore the history of the jury system in England by reading how a case would be decided in four different historical time periods. They will learn the requirements for jury duty and, through a case study, identify the roles played by the jury.

With help from their judge, they will analyze an actual summons from court to determine how to respond if they are called to jury duty.

The Jury

Lesson 1: History of the Jury System

Objectives

- Students will identify where the American jury system originated.
- Students will identify stages in the development of juries.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of the handout — Did Lyle Steal the Pig?

Vocabulary

- **Jury** is a group of people that decides the facts in a trial.
- **Oath** is a solemn promise in front of God.

Procedures

■ Pass out the Did Lyle Steal the Pig? handout. Have students read through and understand the facts. Students should then answer the questions that follow.

Answers to "Did Lyle Steal the Pig?" handout:

1. **Year 1000** — This system's ability to get true testimony depends upon how seriously people regard taking the oath. Many people in this time period believed strongly that lying under oath would send them to eternal punishment after death. That underscored the seriousness of taking an oath. The unfair aspects are that people do lie and it is the number of friends not the evidence that determines who is telling the truth. It is also unfair that women were not allowed to participate.

   Year 1100 — There is nothing fair about this.

   Year 1300 — This system allows people to make a determination based on what they know of the facts. The unfair aspect is that the decision may well depend upon Lyle's relationships with his neighbors, and not whether he really took the pig. It is also unfair that women were not allowed to participate.

   Year 1400 — This system allows the men to make a decision based on evidence presented to them. It is unfair that they are locked up without food and water until they decide. This could result in unjust decisions. It is also unfair that women were not allowed to participate.

2. Today's juries are made up of men and women who do not know the facts before the trial. They see and hear evidence before deciding. They make their decision in private, although they are given food and drink.

■ Explain that the United States got its jury system from England.

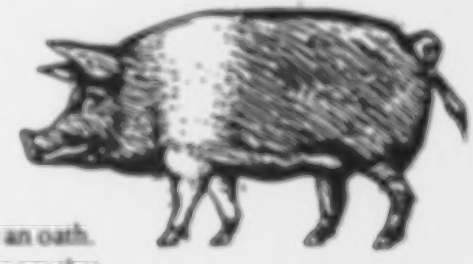
■ Tell students that England exported the trial system throughout the British Empire to regions of Africa, Asia, and the New World. Its use has

lessened in most countries other than the United States. Today there are about 120,000 jury trials held every year in the world; 90% of them in the United States.

■ Ask whether their home country has ever used juries.

■ Tell students the next class will explore who is on the jury.

Did Lyle Steal the Pig?



Lyle lives in England. He is charged with stealing and eating Alfred's pig. Lyle says he is innocent. Alfred says Lyle is guilty.

The year is 1000. Lyle calls twelve friends who take an oath. They swear that Lyle is truthful and honest. They swear that Lyle did not steal the pig. Alfred calls twenty-four friends who take an oath. They swear that Alfred is telling the truth. Lyle will be found guilty because Alfred had more people on his side.

The year is 1100. Lyle is not able to get twelve men to take an oath. The judge orders that his thumbs be tied to his toes. He is thrown into a river. If he sinks to the bottom of the river, he is innocent. If he floats in the river, he is guilty.

The year is 1300. The judge calls a group of men from Lyle's neighborhood. The judge picks twelve who know about Alfred, Lyle and the pig. These men decide whether or not Lyle is guilty.

The year is 1400. The judge calls men from Lyle's neighborhood. A group of men is selected who do not know about Lyle, Alfred and the pig. These men hear from others who know about Lyle, Alfred and the pig. They decide whether or not Lyle is guilty. They are shut up without food or drink until they reach a decision.

1. What is fair and unfair about each decision?

2. What is like today's jury system?

The Jury

Lesson 2: What Does a Jury Do?

Objectives
- Students will identify the role of a jury.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time
One 50-minute class period.

Materials
Copies of handout — The Jury's Role.

Vocabulary
- Verdict is the decision in a case made by a jury.

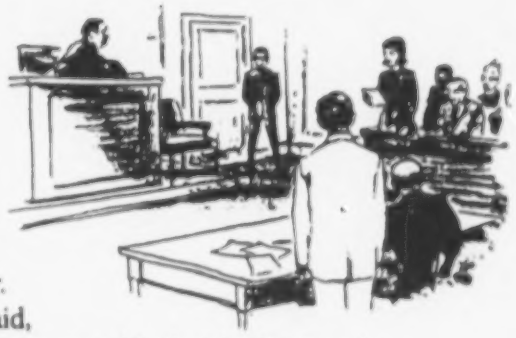
Procedures
■ Explain to students that the role of the jury is to decide what the facts of a case are. The members of a jury are called jurors. The jury can generally consider a case in secrecy and announce its verdict (decision) without having to give its reasons.

■ Pass out the Jury's Role handout. Ask students to read the facts aloud. Make sure students understand. Then decide which activities belong to the jury.

Answers to the Jury's Role Handout:

1. The judge would decide what the law is.
2. The jury decides which witnesses are telling the truth.
3. The jury looks at the evidence to decide whether or not Nithica killed Mohammed.
4. The witnesses talk to the judge in court about what they know of Nithica.
5. The defense lawyer argues that Nithica is not guilty.
6. The prosecuting attorney argues that Nithica is guilty.
7. The jury decides if Nithica is guilty.
8. The judge decides what Nithica's penalty is. (In some states, the jury decides the penalty.)
9. The jury reaches a verdict.

The Jury's Role



Nithica lived at home with her mother. She is 19 years old. Nithica liked Mohammed very much, but Mohammed was not interested in Nithica. Mohammed and his friends teased Nithica. They called her names and spit on her. One day they threatened to beat her. Nithica said, "You will all be sorry." Later that day, Mohammed was stabbed with a knife and died. The police arrested Nithica.

Nithica had a trial. She was charged with murder.

Directions: Check each action that a jury would do in Nithica's case. Do not check actions that belong to the judge, witness, or other person.

- ☐ 1. Decides what the law is.
- ☐ 2. Decides which witnesses are telling the truth.
- ☐ 3. Looks at the evidence to decide whether or not Nithica killed Mohammed.
- ☐ 4. Talks to the judge in court about what they know about Nithica.
- ☐ 5. Argues that Nithica is not guilty.
- ☐ 6. Argues that Nithica is guilty.
- ☐ 7. Decides if Nithica is guilty.
- ☐ 8. Decides what Nithica's penalty is.
- ☐ 9. Reaches a verdict.

The Jury

Lesson 3: Summoning the Jury

Objectives

- Students will learn how the jury system works.
- Students will learn that when they become citizens they may be called to jury duty.
- Students will understand the summons for jury duty.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — Jury Summons.

Vocabulary

- **Exemption** is a valid excuse from jury duty.
- **Felony** is a serious crime.
- **Jury clerk** is the court officer who organizes the juries.
- **Summons** is the official court call to jury duty.

Procedures

■ Introduce yourself to the students and tell a little about yourself if this is your first class. Tell students that they are going to analyze a Summons for Jury Duty today, one that they themselves may receive once they are citizens.

Your State

What are the requirements to serve on a jury in your state?

■ Explain first to students that in order to serve on a jury in Washington State, they must be 18 years of age or older; a citizen of the United States; a resident of the county in which they have been summoned to serve; able to communicate in the English language; and have not been convicted of a felony for which their civil rights are not restored. Students will need to understand what a felony is and that civil rights are lost upon conviction. In some cases, these civil rights can be restored.

Ask students if they could ever serve on a jury. Yes, so long as they fulfill the requirements.

■ Pass out the Jury Summons handout, which is a copy of an actual summons for jury duty. Have students read through the summons in class and answer the questions that follow in pairs.

Answers to the Jury Summons Handout:

Your State

Do you have a copy of a summons for jury duty in your state?
What procedures are followed in your state for summoning jurors?
How is the jury source list created in your state?

JUDGE'S LESSON

1. Mai Chin
2. This summons is an official call for Mai Chin to serve on a jury.
3. The presiding judge of the Seattle Municipal Court has sent this summons.
4. Mai Chin is required to complete a Juror Information Form and return it within five days of receiving the summons. She is required to call the jury clerk and let the clerk know that she has received this summons. She is required to request a rescheduling of or an exemption from jury duty by filling out a form. If Mai Chin does not communicate in English well enough to understand the court proceedings, she can request an exemption, or an excuse from jury service. Otherwise she is required to be a court at 8 a.m. on June 12, 1995.

   The judge may explain to the class that the court generally leaves it up to the juror to declare whether or not they are able to communicate well enough in English to serve on the jury. Each court deals with this issue in its own way, but generally there is no test or proof required of the juror to show that their English is sufficient.

5. She has 5 days to answer the summons.
6. The summons tells her that there are state and local laws that enforce the jury duty.
7. Mai Chin has an obligation to serve on a jury. It is not voluntary.
8. If Mai Chin had already scheduled a trip back to China, she should request to be rescheduled. In her request, she should state her reasons and she should suggest what two weeks she would be available.
9. June 12, 1995.
10. June 12 to June 23, 1995. However, she can expect not to have to serve on Fridays, although it is possible she can be called back on Fridays.

■ Ask students how the courts got Mai Chin's name to call her for jury duty. Explain that in Washington State, a "jury source list" is created. As of September 1, 1994, in Washington State, this list is made up of all registered voters for any county, merged with a list of licensed drivers and identicard holders who reside in the county. Prior to September 1, 1994, this list was only made up of registered voters in the county. This list gives each person's name and residence address. The county auditor files this list with the superior court.

■ Solicit questions from the students. You might explain how a jury can decide a case when they are not trained in the law, a frequent question posed. Thank them, encouraging them to serve on juries if summoned.

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The Municipal Court of Seattle

SUMMONS FOR JURY SERVICE
IN THE MUNICIPAL COURT OF SEATTLE
KING COUNTY, WASHINGTON

YOU MUST RESPOND TO THIS SUMMONS

MAI CHIN
4588 S. Rainier, Apt. 6
Seattle WA 98110

STATE OF WASHINGTON
THE CITY OF SEATTLE
COUNTY OF KING

TO: MAI CHIN

GREETINGS:

In the name of the State of Washington, you are hereby required to appear on the 12th day of June, 1995 at 8:00 o'clock AM at the Municipal Court, 12th floor of the Public Safety Building, 600 - 3rd Ave. (between 3rd and 4th Avenue; and James and Cherry Streets), to serve as a juror for a two-week period.

Jury duty is not voluntary; it is a civic duty of those citizens selected to serve, and is enforceable under both state and local laws. YOU ARE REQUIRED TO COMPLETE THE JUROR INFORMATION FORM AND RETURN IT IN THE SELF-ADDRESSED ENVELOPE WITHIN FIVE DAYS OF RECEIPT.*

While the court is usually willing to reschedule jurors to more convenient times, excuse will be granted only upon a showing of undue hardship or extreme inconvenience, or for other reasons provided by law. If you wish to request to be excused from service or reschedule, you must promptly fill out the exemption card, detailing the reasons for your request. If you wish to be rescheduled, please note the two weeks when you are available. Return all forms to: Jury Clerk; Seattle Municipal Court; Public Safety Building; Seattle, WA 98104. Under normal circumstances, exemptions are only granted for the reasons outlined in Category II on the Exemption/Reschedule Request. If you do not receive a reply to your request to be excused, assume the request has been granted.

Except under extraordinary circumstances, jurors can expect to serve Monday through Thursday of each of the two weeks of service. Occasionally, jurors are asked to return on Fridays.

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* Please return the completed YELLOW/ORANGE JUROR INFORMATION FORM. Regardless of service, INCLUDE ADDRESS INFORMATION AND PHONE NUMBERS.

On the first day that you report for jury duty, take one of the pink elevators to the 12th Floor and proceed to the west end of the building. A Court employee will greet you upon arrival at the Juror Assembly Room.

Thank you in advance for your service. PLEASE ACKNOWLEDGE RECEIPT OF THIS SUMMONS BY CALLING THE JURY CLERK AFTER 10:00 Mon-Fri at 684-5688.

Given under my hand, this 18th day of May, 1995.

_____

Presiding Judge

Questions

1. Who has received this summons?
2. What does summons mean?
3. Who has sent this summons?
4. What is Mai Chin required to do?
5. How much time does she have to answer the summons?
6. What if Mai Chin does nothing?
7. Does Mai Chin have an obligation to serve on a jury?
8. What if Mai Chin had already scheduled a trip back to China for that time in June 1995?
9. What is the first date that Mai Chin is required to be at court?
10. How long will her jury duty last?

Courtroom Protocol

Description of the Unit

Students will learn who the players in a courtroom are. Hopefully, the teacher will be able to show the videotape described which brings to life the courtroom. Students are provided with a word puzzle featuring courtroom players. Students learn the layout of the courtroom. Students will define the role of court interpreters and consider the ethics of court interpreters. Students learn to testify as witnesses. The judge takes the students to the courtroom for a visit. Students will also learn about the legal obligations to provide interpreters in court.

Courtroom Protocol

Lesson 1: The Courtroom Players

Objectives

- Students will identify courtroom procedures and protocol that apply in Washington courts.
- Students will identify the players in the courtroom.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of handouts — Word Puzzle, Word Puzzle Answer, Courtroom Layout, and Layout Answer.

The videotape, *Through My Own Eyes: A Personalized Look at the United States Justice System* is an excellent resource for this lesson (and curriculum). Available from the American Judicature Society in Arabic, Cantonese, English, French, Haitian, Khmer, Korean, Polish, Russian, Spanish and Vietnamese, this video sells for $12 plus $3.50 shipping and handling. It is 30 minutes and comes with a facilitator's manual (English only). American Judicature Society, 25 E. Washington St., Ste. 1600, Chicago IL 60602.

Vocabulary

See terms below.

Procedures

■ Pass out the Word Puzzle handout. Do the word puzzle with students.

■ As students complete the puzzle, identify with them the various players in the courtroom.

- **Judge** — Court official who manages the courtroom and makes sure that trials are operated within legal rules. In cases where there is no jury, the judge decides what the facts are.

  In addition to presiding over trials, judges have many other functions before trial, including issuing warrants and making sure criminal defendants are informed of their rights They hold hearings before trial to rule on motions.

  The judge decides whether or not an interpreter is necessary for a non-English speaking person.

- **Clerk** — This person maintains the court's official records and oversees all record keeping. The county clerk may notify the jurors, maintain all papers and exhibits filed in cases before the court, prepare the minutes of court procedures, and schedule the cases.
- **Bailiff** — The bailiff's main duties are to call the court to order, maintain order in the courtroom and attend to the needs of the jurors. In some counties, bailiffs with legal training serve as legal assistants to the judge.
- **Court reporter** — This person takes notes in court on a special machine and types them up later as the record of the court.
- **Court interpreter** — This person is paid to interpret for the non-English speaking individuals.

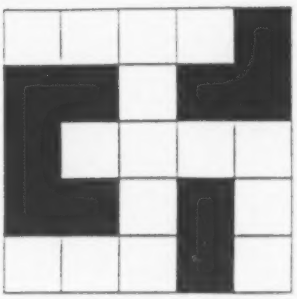
- **Jury** — The trial jury is a group of citizens selected to decide a case.
- **Attorneys** — Officers of the court who advocate and negotiate on behalf of their clients. In a civil case, lawyers work for the parties involved in the suit, representing either the plaintiff (the person bringing the suit) or the defendant (the person being sued). In a criminal case, the prosecuting attorneys represent the government and the defense attorney represents the person charged with a crime.
- **Witness** — Witnesses are persons who will testify (give evidence) under oath during a trial. Generally, they are excluded from the courtroom until they are called to testify.
- **Spectators** — Most cases are open to the public and spectators are permitted to sit in the courtroom and view the trial. Certain types of cases are closed to the public.
- **Victim** (in criminal case) — The victim is the person who was hurt by the defendant. For example, the victim could be the person who was raped or the store owner from whom goods were stolen. This person is generally a witness in the criminal case. Since it is the government bringing the charge in a criminal suit, the victim is not a party to the suit.

■ Pass out the Word Puzzle answer.

■ Give students the Courtroom Layout handout and as a large group brainstorm where each player sits. If students visit a courtroom, they could also fill this in after the visit. Note that courtrooms vary in how they are laid out. Therefore, the Layout Answer may or may not reflect the courtroom visited.

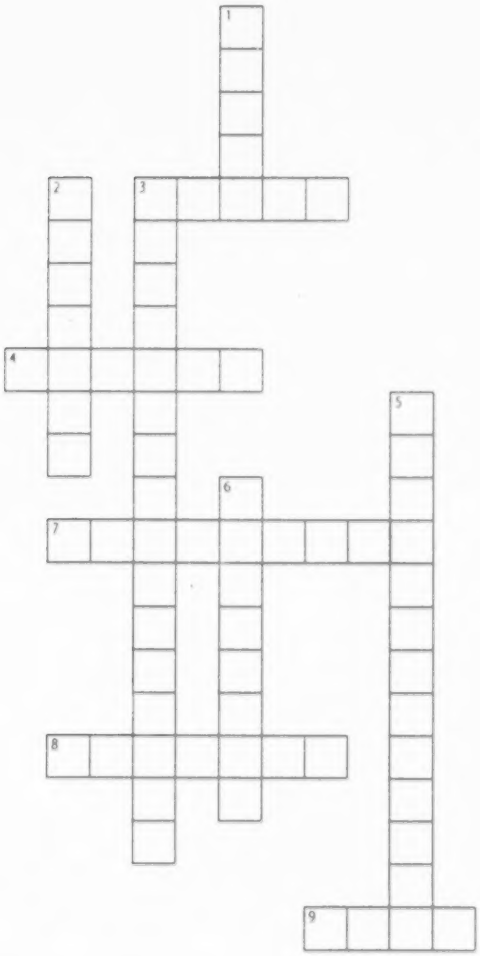
■ Pass out the Layout answer or put on an overhead.

Word Puzzle



Answer the clues from these words.

Attorney	**Judge**
Bailiff	**Jury**
Clerk	**Spectator**
Court interpreter	**Victim**
Court reporter	**Witness**



Across:

3. Keeps track of court records
4. Injured by a criminal.
7. Member of the public viewing the trial.
8. Gives evidence under oath.
9. Group of citizens who decide what the facts are.

Down:

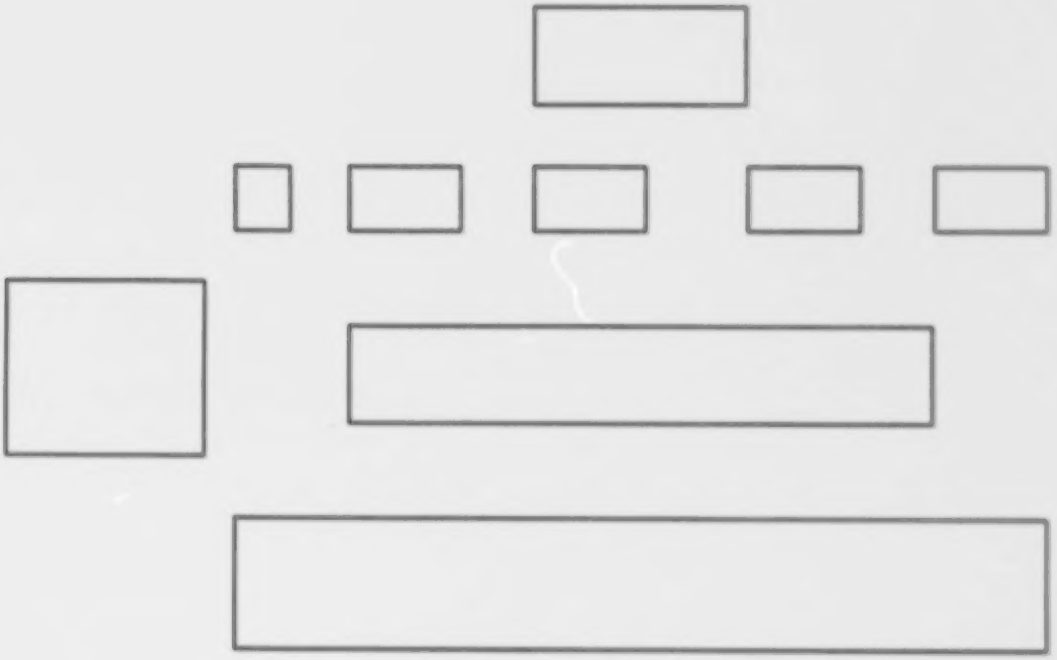
1. Manages the trial and decides what law applies.
2. Keeps order in the courtroom.
3. Translates a witness's testimony into English.
5. Writes down everything said in the courtroom.
6. Lawyer

Word Puzzle Answer

Courtroom Personnel and Layout of the Courtroom

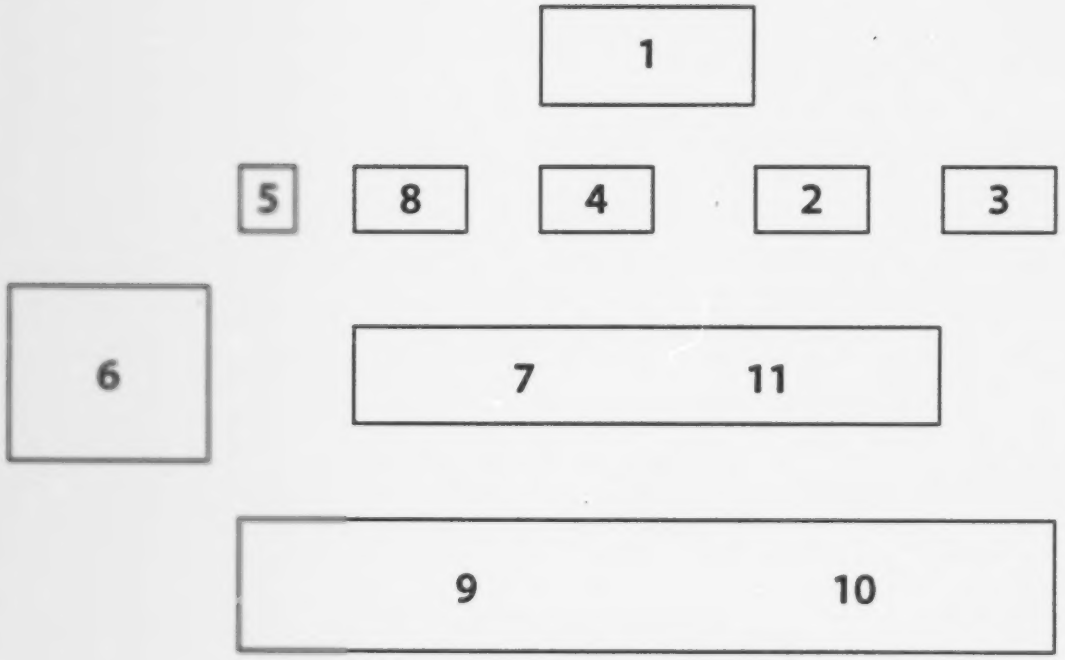
Directions: Show where each person sits in the courtroom. Write the number of the person.

1. Judge
2. Clerk
3. Bailiff
4. Court reporter
5. Court interpreter
6. Jury
7. Attorneys
8. Witness
9. Spectators
10. Victim (in criminal case)
11. Plaintiff (in civil case)



Courtroom Layout Answer

1. Judge
2. Clerk
3. Bailiff
4. Court reporter
5. Court interpreter
6. Jury
7. Attorneys
8. Witness
9. Spectators
10. Victim (in criminal case)
11. Plaintiff (in civil case)



Courtroom Protocol

Lesson 2: How to Testify

Objectives

- Students will review tips for testifying in court.
- Students will also have the opportunity to speak, write, read, and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of handouts — On the Stand and Tips for Witnesses

Vocabulary

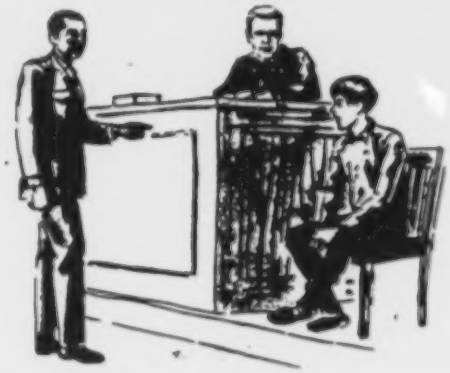
- **Swear** or **affirm** is to make a solemn promise.
- **Testimony** is evidence given by a witness in court.

Procedures

■ Pass out the On the Stand handout. Ask students what happened to Mamahali. What is the problem? Have you ever had to testify in court? Did you use an interpreter? What was it like?

■ Ask students what advice they can give Mamahali. Pass out the Tips for Witnesses handout. Review the general tips for testifying.

On the Stand



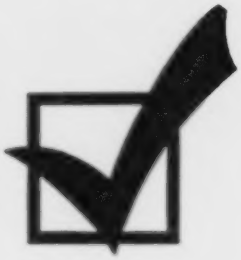
Mamahali is a Masotho. She speaks little English. She was the only person to see a car crash. A car hit a man on a bicycle. The man died. The car did not stop. Mamahali got a good look at the driver of the car. Through an interpreter, she described to police what she saw.

Today, Mamahali will go to court. The police arrested a man. She saw the man and agreed that he was the driver. The man is charged with very serious crimes.

She will be asked questions by the prosecutor and by the defense attorney. An interpreter will explain the questions in Mamahali's language. The interpreter will also explain Mamahali's answers in English

What advice can you give Mamahali?

Tips for Witnesses



Advice in Preparing

1. Review in your mind what happened before going to court.
2. Know what your attorney will ask you.
3. Ask for an interpreter if you cannot speak or understand English.
4. Speak to the court interpreter before the hearing. Tell honestly how much English you speak and understand.
5. Bring any papers with you that relate to your case.

Advice on Presenting

1. Dress appropriately.
2. Show respect for the courtroom.
3. Stand when the judges enters and leaves.
4. Answer questions when asked.
5. Make sure that you look directly at the jury members while talking. Look directly at the judge if there is no jury.
6. Make sure that you speak loudly and clearly.
7. If you use an interpreter, pause every 30 seconds for the interpreter.
8. Make sure that the interpreter translates every word.
9. Do not nod your head while listening.
10. Wait before answering a question. This gives your attorney time to object.
11. Ask if you do not understand.
12. NEVER give an answer to a question that you do not understand.
13. Tell the truth.

Courtroom Protocol

Lesson 3: Interpreting in Court

[Written by Joanne I. Moore, Court Services Specialist and Manager of the Court Interpreter Certification Program, Office of the Administrator for the Court, Olympia WA, and edited by ICEL.]

Objectives

- Students will experience some of the difficulties of interpreting to understand why only professionals should be used in legal proceedings.
- Students will be better able to use the right persons for courtroom interpreters.

Estimated Time

One 50-minute class period.

Materials

None.

Vocabulary

- **Simultaneous interpreting** occurs at the same time the speaker is speaking.
- **Consecutive interpreting** occurs when the interpreter waits for the speaker to finish a sentence or series of sentences and then interprets them into English or the other language.

Procedures

■ This lesson is for more advanced classes. Other classes may skip this lesson and proceed to lesson 4. Tell the class that they are going to be court interpreters today.

■ Read the following passage aloud to the students. Do not pause between sentences. Read at a medium speed. The students should wait about half a sentence, then repeat the passage in their native languages as it is being read, speaking while you are reading.

- **Simultaneous Exercise**
  This hearing is called an arraignment. You are being charged with a crime. I am advising you of your rights. You have the right to an attorney. If you cannot afford one, you may be entitled to a public defender. You have the right to a trial. RCW 2.43 also establishes that you have the right to a certified interpreter to secure your constitutional rights, if you are unable to readily understand or communicate in the English language. Otherwise you could not be fully protected in legal proceedings.

  At your trial, if you want to, you can testify and tell your side of things, but you may also remain silent if you prefer.

■ After the passage is finished, ask the students how well they interpreted. What was easy or difficult about interpreting the exercise? Remember that court interpreters must simultaneously say everything in a trial, much of which may not be easily understood.

■ You may also demonstrate "consecutive" interpreting. To do so, you should read the following two passages. Do not pause between sentences. The students wait until the teacher is finished, then remember and repeat back the whole passage in their native languages (all at once). These passage lengths are typical of court testimony.

- **Consecutive Interpreting**
  1. There were three passengers in the car, northbound. The driver seemed to be a tall red-haired man. Mr. Taylor was sitting in the passenger seat, and right behind was the woman I also saw at the pharmacy the day before. They were going about 35 miles per hour.

  2. My income varies a great deal. Er, … I can earn $2375.59 a month, but, well … some months I earn $890. Last year I made $23,050, but with the car payment and rent, insurance of different sorts, I don't know, food, you know, I'm lucky I can put $60 to $70 in the bank in a month.

■ Ask students whether or not it is a good idea to have a family member serve as an interpreter in court. Students should understand that being bilingual is not enough.

Background for teacher

This session underscores the difficulty of interpreting. Many people assume that any bilingual person is qualified to interpret in court. In fact, interpreters are highly skilled individuals with advanced vocabularies in both languages, superior memory skills, and the ability to repeat speech for hours without stopping. The job is so difficult that few interpreters are able to pass court interpreting tests to become certified.

The main type of interpreting are consecutive and simultaneous. When doing consecutive interpreting, the interpreter waits until the speaker is finished. Then the interpreter repeats the whole sentence (or series of sentences) in the other language.

Simultaneous interpreting is used in the United Nations to interpret speeches as they are being made. It is also used for court interpreting so the non-English speaker can hear everything said in court. In simultaneous interpreting, everything that is said by anyone in the courtroom is interpreted to the party. Only by hearing everything can a non-English speaking criminal defendant exercise constitutional rights to confront and cross-examine witnesses (answer statements made against the defendant by witnesses for the prosecutor), consult with counsel and aid in his or her own defense.

Courtroom Protocol

Lesson 4: Court Interpreters

[Written by Joanne I. Moore, Court Services Specialist and Manager of the Court Interpreter Certification Program, Office of the Administrator for the Court, Olympia WA, and edited by ICEL.]

Objectives

- Students will be better able to use court interpreters.
- Students will define the role of court interpreters.
- Students will contrast common assumptions about court interpreting and actual court interpreter rules.
- Students will understand the constitutional and statutory rights to a court interpreter.

Estimated Time

Two 50-minute class periods.

Materials

Copies of handout — Rules for Court Interpreters.

Vocabulary

- **Certified interpreter** has passed a difficult interpreting test.
- **Qualified interpreter** has skills and experience to interpret in a particular case

Procedures

■ Ask students whether any have ever used an interpreter. Is this different from using an interpreter in court?

■ Ask students who needs a court interpreter. Do immigrants who speak some English or are learning English need court interpreters?

■ Explain to the class that studies have shown that unless an individual understands English as well as an English-speaking high school graduate, much of what is said in court will not be understood. For example, English technical terms which are commonly used in court may be unfamiliar. Court interpreters should be requested even if an individual has some command of English.

■ If any students have used an interpreter in court, you might direct this question to them. How do you get an interpreter? In most states, including Washington, the court calls the interpreter. The judge, after determining that the interpreter is certified or qualified, appoints the interpreter. A certified interpreter has passed a difficult interpreting test. A qualified interpreter has skills and experience to interpret in a particular case. Certified or qualified, they should be educated in both languages and have a lot of interpreting experience.

■ Ask students what an interpreter is supposed to do in court. Explain that many people mistakenly think that the interpreter is to serve as a bilingual ambassador between the court and the non-English speaking party. This assumption leads many untrained interpreters to explain the proceedings to the non-English speaking party and edit the person's testimony so the judge will understand it better. In fact, a court interpreter's role is to act more or less as a telephone, converting all information into the other language.

■ Explain to students that the Federal courts have interpreted the U.S. Constitution to require that interpreters be appointed in order to protect people's rights. Also Washington State and other states have statutes that guarantee the right to an interpreter in court.

■ Pass out the Rules for Interpreters handout. Read through the four rules separately and make sure that everyone understands the rules.

■ Divide class into pairs or small groups and assign them one case to work on and report back.

Answers to Rules for Court Interpreters Handout:

Rule One

A. No, the interpreter did not follow the rule. Zim did not know all the judge's instructions.

B. Zim may be penalized by the judge for failing to follow the judge's order. He could be made to pay money to his landlord for not moving out on time. Neither Zim nor the Judge would know that the judge's order had not been interpreted.

Rule Two

A. The interpreter should have told the judge that she could not hear the witness and ask to be excused.

B. Only the interpreter could have known this. Also, if Patu had brought a bilingual friend to court, the friend might have spotted this practice.

Rule Three

A. The judge should refuse to permit Tomas to interpret.

Rule Four

A. The interpreter gave legal advice which Nova followed. Nova now has a conviction for a crime which she may not have committed. There are consequences to criminal convictions, that in some cases may lead to deportation, imprisonment, payment of fines and restitution, supervision in the community and possible job and civil rights loss.

■ As an extension activity, or as a large class brainstorm, ask students what advice they could give a newcomer about using an interpreter in court.

Advice should include that no friend, relative, or possible witness be used as an interpreter. They should request an interpreter if they cannot speak as well as a native English-speaking high school graduate. They should not ask for or accept advice from an interpreter. If possible, they should bring a bilingual friend to court to follow what the interpreter is saying and to make sure that the interpreters interpret everything. They should make sure that their interpreter is certified or otherwise qualified to interpret. They should tell them that the U.S. Constitution, Federal and state laws require that interpreters be appointed.

Rules for Court Interpreters

Rule One: Interpreters shall interpret everything. They shall not add or omit anything. They must state the material as exactly as possible.

Zim is sued by his landlord. The judge appoints an interpreter for Zim. The interpreter thinks Zim will understand better if he summarizes what is said. The interpreter shortens the judge's long decision. He does not interpret the judge's order to remove furniture from the rental house.

A. Did the interpreter follow the rule?

B. What might happen to Zim after the case?

Rule Two: Interpreters must tell the judge if they doubt their ability to interpret for a person.

One interpreter had difficulty hearing soft voices. She was assigned to Patu's case. Patu testified in a soft, low voice. The interpreter guessed the words she couldn't hear from the context. Patu was convicted based on his statements that conflicted with other statements he made.

A. What should the interpreter have done?

B. Who in the courtroom could have known what the interpreter was doing?

Rule Three: No interpreter shall interpret in a case if the interpreter might be a witness, or is a friend or relative of the persons in the case.

Santiago spoke little English. He brought his cousin, Tomas, to his trial for a crime. The judge had not called an interpreter. The judge said Santiago would have to come back later. Santiago lives 50 miles away. Tomas offers to interpret to save time for all.

A. What should the judge do?

Rule Four: Interpreters shall not give legal advice.

An interpreter was appointed in a criminal case. The judge asked Nova, the defendant, whether she wanted to plead guilty or not guilty. Nova was bewildered. She asked the interpreter what she should do. The interpreter told her that almost everyone would plead guilty in that kind of case. The defendant decided to plead guilty, too.

A. What, if anything, went wrong here?

Courtroom Protocol

Lesson 5: Visiting the Courtroom

Objectives

- Students will travel to the judge's court and sit through some portion of a hearing.
- Students will identify the players in court and evaluate witnesses as to their ability to testify effectively.

Estimated Time

One 50-minute class period.

Materials

None.

Vocabulary

None.

Procedures

■ The judge is encouraged to arrange a courtroom visit for the students. Students will observe a portion of a courtroom proceeding involving testimony. Hopefully, the judge will be able to take a recess and speak to the class. The judge should ask students about the players in court, if possible introducing them to courtroom personnel.

The judge can review with students what makes a good witness.

Appeals

Description of the Unit

Students will read an unmarked opinion case study on killing a parent. Students will analyze their own and other arguments for using battered child syndrome in a defense to murder. Students will practice and then conduct an appeal in front of their judge. Alternatively, students as a class will present arguments for and against the battered child syndrome to the judge. Students will learn the characteristics of an appeal and how it differs from a trial.

Appeals

Lesson 1: Killing a Parent

Objectives

- Students will identify at least two reasons for and two reasons against allowing battered children to use self-defense to the charge of murdering a parent.
- Students will learn some terminology for an appeal.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

Two 50-minute class periods.

Materials

Copies of handout — Andy's Family.

Vocabulary

- **Appellant** is the person who lost the trial and is asking the appeals court to change the outcome of the trial.
- **Appellee** is the person who won the trial.
- **Battered child's syndrome** is part of the defense of self-defense that allows the court to consider the psychological state of an abused child who is being tried for murder of the abusing parent.
- **Defendant** is the person who is charged with a crime or sued for a civil injury.
- **Guilty** is a court finding that a person committed a crime.
- **Prosecutor** is the government lawyer bringing a criminal case.
- **Self-defense** is the right of a person to reasonably defend self against unwarranted attack.

Procedures

■ Introduce today's topic of an abused child killing a parent. Tell students that this is a controversial issue. The Washington State Supreme Court is the first court in the United States to allow the admission of "battered child syndrome" to show self-defense. This issue will form the basis of an appeals hearing involving arguments to a judge.

Today's class will involve preparation. The students will later make their arguments to a real judge.

Background Information on Parricide (Killing of a Parent) in America

[Taken from Susan C. Smith, "Abused Children Who Kill Abusive Parents," 42 Cath. U.L. Rev. 141 (Fall 1992).]

Every year in the United States, an estimated 300 children kill a parent. About 90 percent of these children have suffered combined forms of physical, psychological and sexual abuse. The father is the abuser 90 percent of the time, the mother 10 percent of the time.

Studies of these children have been underway by psychologists and psychiatrists for the last 20 years.

Abused children who kill their parents have

been found to share many similar characteristics. They are usually from white, middle or upper-middle class backgrounds, ranging from 16 to 18 years old.

Typically, the children have no history of delinquency or violent behavior. Many are exemplary children, submissive and peaceful, posing no threat to other members of society. Most function normally in school and are average or above-average students. The children are generally subject to unstable family relations and patterns of severe victimization by a parent, suffering combined forms of abuse and witnessing the abuse of family members. It is common that these children are denied or received little assistance and that few options to end the abuse exist. Often they know that others are fully aware of the abuse but are unable or unwilling to help.

Most of the children seem to have very close relationships with their parents and are frequently described as very compliant adolescents. Psychologists note that their parents view the children as objects or pieces of property; the children exist in order to satisfy the needs of the parents, having no independent identity. Running away from home is not an option for many of these children because of the emotional and social bonds with parents, or because of fear that other family members will be abused in their absence. Even when the children do run away, they are often returned home to their parents.

Having endured the abuse, many of the children blame themselves and are potentially suicidal. After repeated beatings and threats, the children believe their lives are in mortal danger. As a result, the children usually kill in some combination of fear, revenge or self-defense. The killings are commonly premeditated, brutal and take place when the parent is in a nonthreatening position. Many children deny the killings and try to cover them up, but eventually confess.

■ Pass out the Andy's Family handout. Have students read the facts and opinions one and two aloud.

■ Explain the terms prosecutor and defendant.

In a criminal trial, the prosecutor represents the government and brings a case against the defendant—the person charged with wrongdoing. In this case, the prosecutor represents the State of Washington. The defendant is Andy.

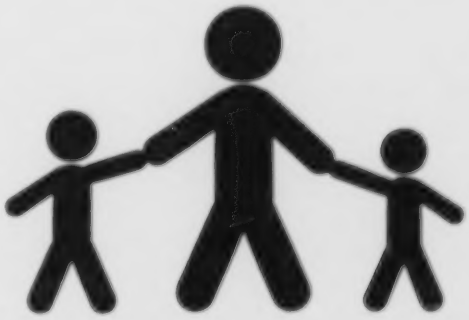
On appeal, the losing party is the appellant. Since Andy was found guilty and appealed, he is the appellant. The winning party, the State of Washington, is called the appellee on appeal.

Andy wants the appeals court to change the decision of the trial court. He wants the appeals court to rule that he was justified in killing Walter because of self-defense. He wants the court to consider his psychological condition after ten years of abuse. This is the "battered child syndrome." The battered child syndrome permits the court to decide whether or not Andy was acting in self-defense. Given Andy's own psychological awareness for danger, did he reasonably believe that Walter was going to seriously hurt him?

■ Clarify the facts. Ask students what the trial court decided. *Andy is guilty of murder and is sentenced to prison for 10 years.*

■ Ask students to identify the problem that the appeals court must decide. *Is Andy guilty of murder or is he justified to act in self-defense?*

Andy's Unhappy Family



Andy lived with his mother, brother, and his mother's boyfriend. His mother's boyfriend, Walter, was a very angry and violent man. Walter frequently seriously hurt his wife and children when he was angry. This went on for ten years, from the time Andy was 7 to 17 years old. There were about 500 times that Walter abused Andy.

Without warning, Walter would hit Andy. Andy lost consciousness at least two times. Walter regularly threatened to hurt Andy. The government was called to help Andy at least two times. The government never took any action.

On August 29, Walter and Andy's mother were arguing. Walter later that night made a threat to Andy. The next day Andy's mother told Andy that Walter was still angry.

That day, Andy told his friends that he would kill Walter. He loaded a gun. He hid the gun and then went to school. He wrote his mother a letter. He said he was killing Walter to make her happy. Andy left school early. He got the gun. He shot Walter when he came in the house. Walter died of two bullet wounds in the head.

Andy is charged with the crime of murder. Murder is killing a person after thinking about it and intending to do it.

The trial court decided he was guilty. He was ordered to spend 10 years in prison. Andy appeals his case.

Is Andy guilty of murder?

Opinion One

Andy chose to kill a human being. He is guilty of murder. Walter did not present a threat to Andy at the time he was killed. Walter just walked into the house. Andy could have run away or gone to a friend's house. Andy was not acting in defense. Instead, he was taking revenge. Walter was wrong to abuse his family but he did not deserve to die for it.

Parents have the right to discipline their child in any way. The government has no right to interfere. Children are the property of the parents and exist to do what the parents want.

Opinion Two

Andy had a right to kill his parent. He was acting to defend himself from serious injury. Andy had been seriously abused for ten years. He no longer thought and acted like a normal child. He was always watching for Walter. A slight change would make him very alert.

The night before the killing, Andy saw his parents argue. Walter exploded and threatened him. The day of the killing, his mother told him that Walter was still angry. Andy reasonably could believe that Walter was going to seriously hurt him that day. Andy had no where to go. He had no way to support himself. He could not leave his mother.

The government had never helped him. Andy had a right to defend himself from Walter. He is not guilty of murder.

Appeals

Lesson 2: Identifying the Arguments

Objectives

- Students will learn more terminology and procedures for an appeal.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

Two 50-minute class periods.

Materials

Copies of handouts — Ranking Arguments, Instructions for Andy's Lawyers, Instructions for Prosecutors, and Instructions for Judges.

Vocabulary

- **Appeals courts** are courts that review the decisions of a trial court.

Procedures

> **Note:** If the appeals hearing appears too formidable for students, divide the class in half, one side representing Andy and one side representing the government. All the students will argue one side or the other. The judge will ask any of the several attorneys for Andy what arguments they might make. The judge will then ask any of the several lawyers for the government what arguments they might make.

■ Divide into small groups of up to five. Give students the Ranking Arguments handout, and have them list and rank the arguments (the ones in Andy's Family handout and any of their own) for both opinions. Students should spend 10 minutes identifying and ranking these arguments.

■ Explain to students that they will each be arguing this case in a small group of three. They each need to write these arguments down.

■ Have students count off by three's. All the ones are the lawyers representing Andy, all two's are the prosecutors representing the State of Washington, and all the three's will be judges.

■ Pass out the appropriate set of instructions handout for each group (i.e., Instructions for Andy's lawyers to all the members of group one).

■ Explain the format: Andy's lawyer goes first and has 5 minutes to argue the case. The "judge" may interrupt to ask questions. After Andy's lawyer argues, the prosecutor has the right to argue the case for 5 minutes. The judges will not rule on the case in front of the small group. After the 10 minutes of arguing are up, all the judges will come to the front of the room and announce their decisions. Each judge should give one reason for his/her decision.

■ Students should work on this for the remainder of the class. At the next class students should then review their work and put on the hearings.

Ranking Arguments

List all the arguments in Opinion One for finding Andy guilty. Add any other arguments that you can think of. Do the same for Opinion Two. Then go back to Opinion One Arguments. Mark the strongest argument with "1" in the box, the next strongest with "2," etc.

Opinion One
Arguments:

☐ A. _____

_____

☐ B. _____

_____

☐ C. _____

_____

☐ D. _____

_____

☐ E. _____

_____

☐ F. _____

_____

Opinion Two
Arguments:

☐ A. _____

_____

☐ B. _____

_____

☐ C. _____

_____

☐ D. _____

_____

☐ E. _____

_____

☐ F. _____

_____

Instructions for Andy's Lawyers (Group One)

You want the appeals judge to change the guilty ruling. You want Andy to be found not guilty. You want the judge to believe that Andy was acting reasonably to defend himself.

People have the right to defend themselves from attack. To kill in self-defense, people must reasonably believe that they are about to be seriously injured or killed.

Look at your reasons on Ranking Arguments handout. Think what the other side will say. What can you say against that?

Begin by saying:

"Your Honor, my name is _____. I represent Andy. I am here to show that Andy acted in self-defense. The trial court made a mistake."

Now present your arguments.

State what effect this decision will have.

Ask the judge to change the trial court's decision.

Thank the judge for listening.

Instructions for Prosecutors (Group Two)

You want the appeals judge to agree with the trial court. You want Andy to be guilty. You want the judge to believe that Andy was not acting to defend himself.

People do have the right to defend themselves from attack. To kill in self-defense, people must reasonably believe that they are about to be seriously injured or killed. Andy could not have believed that Walter was about to seriously injure or kill him. He had just walked into the house after being gone all day.

What reasons have you thought of? Think what the other side will say. What can you say against that?

Begin by saying:

"Your Honor, my name is _____. I represent the State of Washington. I am here to show that Andy did not act in self-defense. The trial court made no mistake."

Now present your arguments.

State what effect this decision will have.

Ask the judge to not to change the trial court's decision.

Thank the judge for listening.

Instructions for Judges (Group 3)

Your job is to decide if the trial court made a mistake.
Did Andy act in self-defense? Is he guilty of a crime?

People have the right to defend themselves from attack.
To kill in self-defense, people must reasonably believe that they are about to be seriously injured or killed.

Read again the arguments. What questions would you like to ask the attorneys?

_____

_____

_____

_____

Your Decision and Reasons (Do not tell your decision until the teacher tells you to.)

Decision: _____

Reasons: _____

_____

_____

Appeals

Lesson 3: Preparing for the Appeal

Objectives

- Students will solidify their understanding of the difference between appeals and trial courts.
- Students will clarify their personal opinions about punishing an abused child who kills a parent.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

None.

Vocabulary

None.

Procedures

■ To enact the hearings, match one student from group one (Andy's lawyers), with one student from group two (the prosecutors) and one student from group three (judges). Keep making matches until all the groups have been created. If the number of students does not evenly divide by three, "extra" students can share a role—e.g., two judges, two appellants, or two appellees in one group.

■ Remind the students of the time limits of five minutes per side, that the judge waits to announce the decision and at least one reason for the decision to the large group.

■ Help students set up each appeals court by having a chair set aside facing the appellant and appellee. Each student should stand during the time he or she is arguing. Students should address the "judge" as "Your Honor."

■ Have students simultaneously enact the hearings.

■ Call all the judges to the front of the room to announce their decisions, giving at least one reason for their decision.

■ At the end of this session, recruit volunteers in teams of two per side for the judge's visit. Students will present the oral arguments to a real judge. Give these students a chance to prepare in class for the judge's visit. For the "real hearing," let students have up to ten minutes to present the arguments.

Appeals

Lesson 4: Arguing the Appeal

Objectives

- Students will demonstrate their understanding of the appeals process by arguing an appeal.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

None.

Vocabulary

None.

Procedures

■ Greet the class and tell them a little about yourself if this is the first time that you have met. Tell students that for today's class you will preside over their appeal.

The teacher may choose not to conduct a formal appeals hearing with students. In that case, half the students are lawyers for Andy and half are lawyers for the state. You can ask if any lawyer for Andy has an argument to make, getting as many to speak as possible. Then doing the same for the state's attorneys. Elicit as many responses from the whole class as possible.

■ If a more formal hearing is held, the teacher will assist you in setting up the class. You will sit in the front and the two lawyers for the appellants to your left and the two lawyers for the appellees to your right. Remind the students that each will have up to ten minutes to present the arguments.

■ Enact the hearing, allowing appellants, then appellees to argue.

■ Following the arguments, you might ask the class if any of the participants wish to add an argument. Encourage as many students as possible to volunteer.

■ After the arguments, issue a ruling on the case.

Your State

Does your state recognize the battered child syndrome?
What are the facts of a case involving this syndrome from your state?

In *State v. Janes*, 121 Wash. 2d 220 (April 8, 1993), the Washington Supreme Court became the first state supreme court in the nation to recognize "battered-child syndrome," ruling it could be admissible in appropriate cases. The court ordered the trial court judge to reconsider whether he made the appropriate ruling in refusing to let jurors hear evidence that Janes acted in self-defense after enduring a decade of abuse by his mother's boyfriend. In June 1993, the trial judge ordered a new trial for Andy. This order was appealed, and the Washington Supreme Court will decide on June 8, 1994 whether or not to review this appeal. In the meantime, Andy has been home

JUDGE'S LESSON

on $25,000 bail since June 1993, after four years in prison. His lawyer, Lenell Nussbaum, reports that he is doing well. He has recently requested the court to change his release to personal recognizance which means that he would be released without having to pay money. Andy is finding it hard to make the annual payment to keep his $25,000 bail. If personal recognizance is ordered, he will be free on his promise to return to court until such time as a court decides he must return to court.

To determine the final outcome of the case, teachers may review the criminal file of Andrew Janes, Court Case #88-1-01502-8 at the Snohomish County Court in Everett, Washington. They might call the clerk of the Snohomish County Court and get a report on the case. They might also contact Andy's lawyer, Lenell Nussbaum, in Seattle, Market Place Two, Suite 200, 2001 Western Avenue, Seattle WA 98121, 206-728-0996.

The facts in the Andy's Family handout are roughly drawn from that case.

■ After the hearing, congratulate the role-players and then answer questions about self-defense, battered child syndrome and the role of a judge in American courts. Describe yourself as a trial or appeals judge, and explain the differences.

Fair Police Procedures

Description of the Unit

Fair police procedures begins with students defining human rights and examining the role of individual rights in American society. Students will compare to their home country. Students will learn through hypotheticals what reasons are good enough for police stops. The judge will help students apply those rules to case studies. Students will examine in a scripted role-play what drivers should do when stopped by police.

Fair Police Procedures

Lesson 1: Human Rights in America

Objectives

- Students will define "human rights."
- Students will identify the value that America places on the individual.
- Students will contrast the emphasis placed on individuals in America to their home country.
- Students will have a basis for understanding particular individual rights later in this unit.
- Students will also have the opportunity to read, write, and speak in English.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — Human Rights.

Vocabulary

- **Human rights** are granted to every person simply because they are human.

Procedures

■ Tell students that today you are going to talk about human rights.

■ Ask students for a definition of human rights.

Students may identify: "generally accepted principles of fairness and justice" or "universal moral rights that belong equally to all people simply because they are human beings."

Other possible answers include "natural rights," "moral rights," "civil rights," "God-given rights," and "rights flowing from nature."

■ Have students read the Human Rights handout and discuss the answers to the questions on the next page.

Answers to the Human Rights Handout:

1. Former President Carter says that human rights invented America. He says that America was the first country in the world to be founded on human rights.
2. He claims that the value and importance of the individual are the basis for this progress.
3. He claims that it is the love of liberty.
4. This calls for opinions. Some students may agree with him, that freedom was the reason that they came to the United States. Others may say that Americans say they value the individual but certain individuals based on race or country of origin or other reason are excluded from that embrace.
5. Some may report that their country does not place the same importance and value on the individual as Americans do. Instead, the culture may value the community or the family over the individual.
6. Examples may include children's choice of marriage partner, the role of children in a family, the choice of a wife to end a marriage in America, the right of children to support only until the age of 18 and others.

7. Students will cite problems and benefits. The teacher may record these answers on a grid:

American System

Pro	*Con*
_____	_____
_____	_____
_____	_____
_____	_____

Native Country's System

Pro	*Con*
_____	_____
_____	_____
_____	_____
_____	_____

8. This calls for opinions.

9. This calls for opinions. Many students will cite that America had slavery, excluded women, African Americans, and Native Americans from the Constitution when it was first written, or the Japanese American internment during World War II.

■ Have participants in class or for homework write out the answers to these questions. Alternatively, have participants interview one family member or friend about these questions and write up that person's answers.

Human Rights

America did not invent human rights. In a very real sense, it's the other way around. Human rights invented America. Ours was the first nation in the history of the world to be founded explicitly on such an idea. Our social and political progress has been based on one fundamental principle: the value and importance of the individual. The fundamental force that unites us is not kinship or place of origin or religious preference. The love of liberty is the common blood that flows in our American veins.

— President Jimmy Carter

[Farewell Address to the Nation, Jan. 14, 1981, III Pub. Papers: Jimmy Carter 1980-81 2889, 2892 (1982)]

1. What does Former President Carter say about human rights and America?
2. What does he say is the basis of American social and political progress?
3. What does he say unites all Americans?
4. Do you agree with him? Give your reasons.
5. Is this different from your place of origin?
6. Give examples that show how America values the individual. Give examples how your home country values the individual.
7. What are the benefits and problems of each system?
8. Which system do you prefer? Why?
9. Do you think that America really stands for human rights? Explain your answer.

Fair Police Procedures

Lesson 2: Police Stops

Objectives

- Students will identify the circumstances when police may detain persons against their will to question them.
- Students will be able to state the consequences of an illegal search.
- Students will compare an illegal search that turns up no evidence with an illegal search that turns up evidence of a crime.
- Students will compare police procedures in their country of origin with those in America.

Estimated Time

Two 50-minute class periods.

Materials

Copies of handouts — Police Rules and Good Reasons?

Vocabulary

- **Investigate** is to try to find out information.
- **Paid informant** is a person whom the police pay to give information about crimes.

Procedures

■ Tell students that today's class will focus on the human right to fair treatment by the police.

■ Ask students, "under what circumstances in their home country can a police officer stop a person and ask questions in order to investigate a crime?" Get students to describe what they know about when police can stop individuals and question them. As in America, not everyone will know how the law limits the police. As an extension activity, students might be asked to research this issue among members of their ethnic community.

■ Tell students that the United States Constitution and the Washington State Constitution are the sources of the human right to fair treatment by the police in Washington State.

Today they are going to learn the rules about police conduct in the United States and the rights of individuals to fair treatment. While they learn about these rules and rights, they should also realize that the police do not always follow the rules and sometimes the rights of individuals are violated. In later classes, students will see what to do if their rights are violated.

■ Pass out the Police Rules handout and have students take turns reading aloud. Make sure that students understand these police rules.

■ Pass out the Good Reasons? handout and ask students whether police have a good enough reason to stop these persons.

Answers to "Good Reasons?" handout:

1. Yes, the 911 call about a man at that address gives the police enough reason to stop Gene. The fact that he is running also adds to the reason for the police.

2. The police have information that these young people are breaking the law. This gives the police a good reason to stop them.
3. The police do not have a good reason to stop MoJo. The police must have a reason that applies right now that MoJo is breaking the law or hiding some illegal object on him. They do not have any information except that he has done this in the past.
4. The police have a good reason to stop Sam. They may rely on informants who have given good information in the past and who have a basis for giving their information.
5. The police do not have a good reason to stop Bob. The Washington State Supreme Court has declared that this "racial incongruity" may not be used to justify an investigative stop.

Rules for Police on Stopping Individuals Who Are Not Under Arrest

1. A police officer has the right to come up to any person in a public place. The police may ask questions as long as the individual does not have to answer and may walk away.

2. A police officer may not stop a person driving a car to investigate a crime unless the officer has a good reason to believe that the person has broken a law. The officer may stop a person for driving with a broken tail light or for other traffic violations.

3. If the police officer has a good reason that an individual is involved in criminal activity, the officer may stop and question that person.

4. If the officer has reason to believe that the person stopped is armed with a weapon and likely to be dangerous, the officer may pat down the person's outer clothes for weapons.

5. If the officer feels something that could be a weapon, the officer has the right to reach in the clothing and pull out that item.

Do the Police Have Good Reasons?

Directions: Decide whether or not the police have a good enough reason to stop these individuals.

1. The police got a 911 call about a husband beating a wife. Arriving at the address of the caller, Gene is seen running from the house. Do police have a good enough reason to stop Gene?

2. The police see five young people in a park at 11 p.m. The park closes at 10 p.m. Do the police have a good reason to stop these people?

3. MoJo is a known drug dealer. He has been in prison several times for drugs. He is standing at a corner waiting for a bus. Do the police have a good reason to stop MoJo?

4. The police got a tip from a paid informant. The informant has given them true information before. The informant says he bought drugs from Sam outside the high school at a certain address. Do the police have a good reason to stop Sam?

5. Bob is African American. He is in a neighborhood at 1 p.m. that is almost all white. Do the police have a good reason to stop Bob?

Fair Police Procedures

Lesson 3: Stopping the Drug Dealer

Objectives

- Students will apply the rules on police stops to two case studies.
- Students will compare an illegal search that turns up no evidence with an illegal search that turns up evidence of a crime.

Estimated Time

One 50-minute class period.

Materials

Copies of handouts — Police Rules from Unit's Lesson 2, No Drugs Case, and Drugs Case.

Vocabulary

- **Exclusionary rule** is a court rule that prevents the use of illegally obtained evidence to prove someone is guilty.

Procedures

■ Review with students the police rules set out in the Police Rules handout from lesson 2.

■ Pass out the No Drugs Case handout and have students take turns reading aloud. Each student could read one sentence from the case study.

The judge should point out to students that the examples in these materials are using Asian gangs. Every ethnic group has gangs. Asians are not being singled out by these examples.

■ Have students as a group identify what happened in the case.

Answers to No Drugs Case:

1. Students should identify that Van, a young Asian male, was stopped and searched by the police because the police thought he might be involved in selling drugs. The police thought that because they knew of Asian gangs selling drugs, Van was driving a new car and wearing black clothing generally worn by Asian gang members. The police searched his outer clothes and reached in to pull out some small rocks they thought might be drugs. They also searched the inside and trunk of his car. The police did not find drugs. The police let Van leave after telling him this was a "routine stop."

■ Divide the class into small groups and have them decide whether or not the officers acted legally. Have students apply the rules and discuss their reasons.

■ In debriefing students' answers, inform students that under the United States Constitution and the Washington State Constitution, the police acted illegally.

Answers to No Drugs Case, continued:

2. The police did not have sufficient information to reasonably believe that Van was engaged in criminal activity. The Constitution requires the police to have at least a "reasonable suspicion" that Van is involved in criminal activity. The facts that Van is an Asian male, driving a new car and wearing all black are not enough information to amount to a reasonable suspicion.

JUDGE'S LESSON

Therefore, the police had no right to stop Van in his car. All the searches that follow from the first illegal stop are also illegal.

Even if the officers had properly stopped Van (for example, if his tail light was broken), the officers had no reason to believe that Van had a weapon and was dangerous. Their pat-down of his clothes was illegal. They had no right to reach into his pocket and take out what they thought were drugs. They had no right to search the inside or trunk of his car.

In the United States, there is no such thing as a "routine search" by police of persons in public unless it occurs in special places like airports or courtrooms. Van's right to privacy and his right to be free from unreasonable searches and seizures have been violated.

■ Give them the Drugs Case handout. Follow the same procedure, having students read aloud and then describe what happened to Thuy.

■ Have students in small groups decide whether or not the officers acted legally.

■ Have students give their reasons.

■ In debriefing students' answers, inform students that under the United States Constitution and the Washington State Constitution, the police acted illegally in both cases.

Answers to the Drugs Case:

1. Again, the officers do not have a good enough reason to believe that Thuy is involved in criminal activity. Their stop of him was illegal and all the searches that occur after that stop are also illegal. If Thuy does not have a legal right to the gun, the police will not return the gun to him.

   Because the searches were illegal, the government could not use in evidence against Thuy any of the items taken: the gun, the cocaine found under the car seat or in the trunk. Without other evidence, the government could not bring criminal charges against Thuy. Thuy would go free.

■ Students may be surprised at the outcome of the case in the Drugs Case handout, since it is obvious that Thuy is guilty of a crime. Tell students that the government balances the individual right to privacy against the police and society's right to effective law enforcement. In some cases the right to privacy will be protected even though it makes police work less efficient.

■ Ask students if they agree with the outcomes of both cases. Tell students that many native-born Americans disagree with this rule because they believe it allows guilty persons to go free.

■ The reasons that the law uses this rule (called the "exclusionary rule") is to:

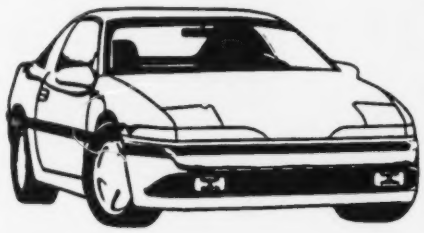
- Show police that they must respect constitutional rights.
- Preserve the honor of the court by not using evidence that was illegally obtained.

■ Tell students that in order for police to have stopped either Van or Thuy, the officer would have to have seen some suspicious behavior that would lead the officer to believe that criminal activity was going on. For instance, if Thuy saw the police, then opened his window and threw something out and then raced away, police may have enough evidence to stop and question Thuy. The police would not have the right to search Thuy's car. Anything the police saw without searching, like a bag of a marijuana on the front seat, could be taken. If the police believed Thuy might be armed, the office could pat down his clothes for weapons. If the officer felt something the officer knew immediately was drugs, the officer could take it.

■ Explain to students that the police do not always follow the law. Students should be taught that they should ask to the see the officer's badge number and to write it down. If the officer refuses, copy down the officer's name, car license number, and location of the contact.

In some cases, persons whose rights have been violated can sue the police for a violation of their rights. This means that if the individual can prove the officer violated the individual's rights, the individual may recover money damages from the police. (Generally, the government that employs the police, and not the individual officer, pays this money.) Realistically, it is difficult to win such a case unless the rights' violation is very severe. The next class will teach students how to behave if they are stopped by a police officer.

Case Study 1: The Individual Does Not Have Drugs



Police have reports that Asian gang members are selling drugs. Asian gang members generally wear all black clothing.

Van is 20 years old. Van does not speak much English. One afternoon, Van is driving his uncle's new car. Van is wearing all black clothing.

Two police officers in a police car stop Van. They think he might be a gang member who sells drugs. They think this because he is a young Asian male, he is driving a new car, and he is wearing all black.

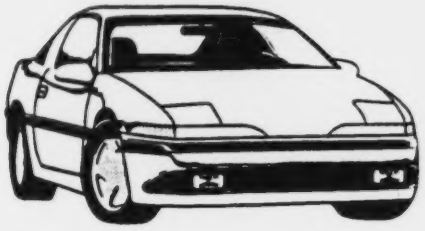
The police order Van out of the car and tell him to put his hands on top of the car. One police officer searches Van's clothing by patting Van with his hands. The officer feels something hard that could be crack cocaine. The officer reaches in and pulls out some small rocks from Van's pocket. They are not drugs. Another officer looks into the car and under the seats for drugs and weapons. The officers tell Van to open the trunk of the car so they can see if there are drugs in the car. Van opens the trunk and shows the police that the trunk is empty.

The police tell Van that this is a routine stop and that he may now leave.

1. What happened in the case?

2. Did the police act legally? Why or why not?

Case Study 2: The Individual Has Drugs



On the same day that the police stopped Van, they also stop Thuy.

Thuy is also 20 years old and does not speak much English. However, Thuy is an Asian gang member. Thuy is driving a new car that he bought with drug money. Thuy is wearing all black clothing. He is a member of a gang.

Two police officers in a police car stop Thuy because they think that he might be a gang member who sells drugs. They think this because he is a young Asian male, he is driving a new car, and he is wearing all black.

The police order Thuy out of the car and to put his hands on top of the car. One police officer pats down Thuy's clothing to feel for a weapon and finds a gun in Thuy's pants.

The other officer looks into the car and under the seats for drugs and weapons and finds a small package of crack cocaine under the seat. The officers tell Thuy to open the trunk of the car so they can see if there are more drugs in the car. Thuy opens the trunk. The trunk has more cocaine.

The police tell Thuy that he is under arrest and take him to the jail.

1. Did the police act legally? Why or why not?

Fair Police Procedures

Lesson 4: Handling an Automobile Stop

Objectives

- Students will identify correct and incorrect actions to take when driving and being signalled by police to stop.
- Students will identify the limits on the police ability to use deadly force.
- Students will identify consequences of not following the correct procedures.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — Police Stop.

Vocabulary

None.

Procedures

■ Inform students that today they get to be actors and actresses and play roles in a mock police stop. Tell students that you want them to know how to behave in the event that they are stopped by the police. (The instructor should not directly ask students about their experiences in being stopped by the police, but students may volunteer this information.)

■ Pass out the Police Stop handout, the script of the simulation. Divide the rest of the class into two groups: police sergeants and defense counsel. Explain these roles: the police sergeant is the supervisor to the police. Defense counsel are the attorneys who would represent Diane in a criminal trial. The half of the class that is designated police sergeants must listen to the simulation and then critique what the police officers did that was correct and what was incorrect.

Those designated as defense counsel will listen and then critique what Diane did that was correct and what was incorrect.

■ After clarifying what happened in the role-play, the police sergeants should work in small groups of up to five to decide what if anything the police did that was correct and that was incorrect. (There can be more than one group of police sergeants.) "Officer Johnson" and "Officer Garcia" may join one of these groups.

■ The class members designated as defense counsel should work in small groups of up to five to decide what if anything Diane did that was correct or incorrect. (There can be more than one group of defense counsel.) "Diane Doan" may join one of these groups.

■ The group(s) working as police sergeants may question whether or not the police should have drawn their guns when Diane approached them. This would be considered proper, since police interpret that as an aggressive action. Police, however, would not legally have been able to use their guns unless they had enough information to reasonably believe that Diane Doan was about to kill them (or another) or inflict serious bodily injury and that this was the only way they could

stop her. The police would have had to have seen some weapon or more facts that showed Diane had a weapon or the ability to hurt them (or others) seriously before the officers legally could have shot their guns.

Students should discuss how the police officers feel. Students should realize that officers work under a lot of stress, since any encounter with an individual could potentially result in their death.

■ Students playing the part of defense counsel should identify that Diane was speeding. Speeding is a traffic infraction. A traffic infraction is an act for which an individual may be punished, but not sent to jail.

Your State
What is the penalty in your state for willfully failing to stop for an officer?
What is a driver required to show or report to an officer when stopped?

Diane has a legal duty to stop when requested or signaled to stop by police for speeding.

If the court determines that she *willfully* failed to stop when the officer signaled her to stop, she has committed a crime for which she may be imprisoned in the county jail for up to 90 days and/or fined up to $1,000.

Diane, out of respect, chose to get out of her car and approach the police officers. In America, getting out of the car and approaching the officers, is seen as an aggressive action. Diane should have pulled over to the right side of the road where it was safe to do so and sit in her car. She should have kept her hands up on the steering wheel so they are visible to the officers when the officers approach.

The officers have a legal right to stop her for a reasonable amount of time in order to identify who she is, check to see that she has a valid driver's license, make sure there is an insurance identification card, check the vehicle's registration, and complete and issue a notice of traffic infraction (the "ticket").

Diane has a legal duty to identify herself and the car's owner to the police, give her current address, and sign an acknowledgment that she received the ticket.

It is against the law for Diane to give a false name or address for herself or the owner of the car if it is not hers, or refuse to produce the registration, insurance card, or her driver's license. Diane has a legal obligation to give her driver's license and registration certificate to the officer if the officer asks for them. The officer will return these documents.

Once the officers had drawn their guns, Diane should have stood still and put her hands up in a way to indicate that she had no weapon. Once the officers could determine that she posed no threat, they would put their weapons away.

If Diane's English is very limited, she might want to keep a written statement of that fact and who she is available in her car to give to an officer in the event she is stopped.

Diane should make sure that she got the name of the police officers and their badge numbers. Explain to students that each police officer has an individual badge number and how to identify it. As soon as she can, she should write down what happened in the event that further legal actions are taken.

■ Review with class the rules when a police officer may stop an individual.

A Police Stop

Roles: Police Officer Garcia, Police Officer Johnson, Diane Doan, Driver, Police Sergeants, Defense Counsel

Action: Officer Johnson is driving the police car with Officer Garcia when they notice Diane Doan driving her car. Diane, who speaks little English, is driving 75 miles per hour on the freeway where the limit is 55 miles per hour. The freeway is very crowded. The police officers turn on their flashing blue lights and siren and drive behind her.

DIANE (TO HERSELF): Oh, no. The police are behind me.

OFFICER GARCIA: Johnson, this car is speeding 20 miles over the speed limit.

OFFICER JOHNSON: Garcia, she isn't pulling over. Call for more police.

DIANE (TO HERSELF): It is too crowded to pull over. If I slow down and keep driving, the police will forget about me.

OFFICER GARCIA (TO OFFICER JOHNSON): Pull up next to her on the freeway.

OFFICER JOHNSON: I am next to her but she is not responding.

(THREE POLICE CARS NOW SURROUND DIANE'S CAR)

DIANE (TO HERSELF): What do all these police want? I am very nervous. What should I do? I will stop the car and walk back to the police to show my respect for the police.

OFFICER GARCIA: The suspect is getting out of her car and is approaching. She may have a weapon. Draw your guns. Lady, get back in your car!

DIANE (TO HERSELF): I do not understand what these men are shouting. I am getting out of my car. I will show that I respect them. There are six police officers with their guns aimed at me. They are shouting at me. I do not understand them. I do not know why they are angry with me. They must want to kill me. I will run away.

OFFICER JOHNSON: FREEZE!

Suppression Hearing

Description of the Unit

Students will prepare for and enact a hearing before the judge on suppressing evidence. Students will hear a scripted version of the hearing and then prepare for and enact the hearing in triads before one team will argue the case to the judge. Alternatively, the students could be divided into defense and prosecution teams to have the entire class make arguments about the case to the judge.

Suppression Hearing

Lesson 1: The Facts of the Case

Objectives

- Students will identify the consequences of an illegal stop and an illegal search.
- Students will prepare to argue a motion to suppress.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — A Mock Hearing.

Vocabulary

- **Defense** is the side against whom a case is brought.
- **Motion to suppress** is a request to a judge to keep some incriminating item out of evidence because of some illegal process in obtaining the evidence, usually an illegal search, an illegal stop, or illegal confession.
- **Prosecutor** is the attorney representing the government in a criminal case.
- **Suppression hearing** is a court hearing in which a judge hears evidence and arguments and decides whether or not to allow some item into evidence to prove a person committed a crime.

Procedures

■ Have students read the Mock Hearing handout. Review with students the important facts. Ask students to explain what Jerry is claiming and what the government is claiming.

■ Tell students that in American courts, when a person charged with a crime claims that evidence was obtained illegally, the person's lawyer may make a motion to suppress.

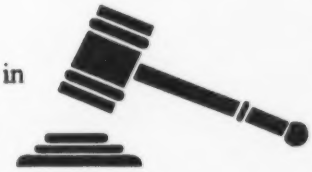
There will be a hearing (suppression hearing) in front of a judge. The judge will hear evidence from the police and the defendant (if the defendant chooses to testify) and will hear the arguments of the prosecutor and the defense counsel.

The jury does not hear about this hearing. If the defendant is successful in "suppressing" the evidence, the evidence may not be used during the criminal trial to prove the defendant is guilty of the crime charged. If there is not sufficient other evidence, the prosecutor will dismiss the case and the defendant is free. However, if the prosecutor gets other evidence at a later time that is independent of the illegal search, the prosecutor can bring charges again.

If the defendant is not successful in showing the evidence was illegally obtained, the evidence is used against him or her in court.

■ Tell students they are going to get a chance to role-play suppression hearings. They will do so in small groups in class and then one group will get to do the role-play again before a real judge.

Should the Drugs Be Used in Evidence? A Mock Hearing



Police Officer Guyer was working late at night on June 5. He was in an area with a lot of drug sales. He saw Tom act in a suspicious way. Officer Guyer thought Tom was selling drugs.

Tom stood on a corner. He walked up to people in cars. He talked with them. Three times, Tom walked away and disappeared when a police car came by.

Twenty minutes after Tom disappeared, the Officer saw Tom walking with Jerry. The officer drove up next to the two men.

The officer asked them if he could talk to them for a few minutes. He asked them to empty their pockets. He asked them to place both the contents and their hands on the car. During the entire questioning, both men had their hands on the car.

The officer asked each man for identification. He told them that the area is known for drug sales. He asked them if they lived in the area.

Tom said yes. Jerry said he lived in another area. He said he had been in a bar. He said he was now going to his parents' home. The officer then asked if either used drugs. He asked if either had drugs. They said no. The officer then asked to search their pockets.

The officer found cocaine in Jerry's pocket. The officer arrested Jerry for possession of cocaine.

Jerry claims that the government cannot use the cocaine in the courts as evidence that he is guilty of possession of cocaine.

Jerry claims that the police did not have a good reason to believe that he was committing a crime. Therefore, the police had no right to stop him and make him put his hands on the car and empty his pockets. Jerry says the police stop of him was illegal. Therefore, the search was also illegal.

The government claims that the police officer had a legal right to stop Jerry. Jerry was present in a high crime area. It was late at night. Jerry was with someone whom the officer reasonably believed was selling drugs. Therefore, the stop was legal and search was legal. The cocaine should be used in evidence against him.

1.0

Suppression Hearing

Lesson 2: Role-Playing the Parts

Objectives

- Students will practice giving testimony.

Estimated Time

One to two 50-minute class periods.

Materials

Copies of handout — Questioning a Witness.

Vocabulary

None.

Procedures

■ Begin the preparation for the role-play. In the role-play, five people will have a part: the judge, prosecutor, defense counsel, Officer Guyer, and defendant Jerry.

■ Put these roles on the board and have students identify each player:

- The judge decides whether or not the evidence was legally obtained.
- The prosecutor is the government's lawyer whose job it is to show that the evidence was legally obtained.
- The defense counsel is the lawyer for Jerry who is asking the judge to throw out the evidence. The lawyer must prove that the police illegally searched Jerry.
- The police officer is a witness who wants to show that s/he did a legal search.
- The defendant Jerry is a witness who wants to show the search was illegal.

■ To help them understand what is going to happen, do the scripted questioning on the Questioning a Witness handout. The teacher could read one part and two students the other two parts.

After the simulation, ask students what they noticed. They should notice that the lawyer asks questions and the witness answers.

They should notice that the first questions asked the witness's name and a little background on the witness. Then the questions asked the officer to tell what happened.

The students should notice the witness's behavior. They should note what makes the witness seem believable. They should notice that when one side objects, the witness immediately stops talking. The witness does not argue with the lawyers, but remains calm and tells a clear story.

Questioning A Witness

The Prosecuting Attorney asks questions of his/her own witness, Officer Guyer.

PROSECUTING ATTORNEY: State your name, please.

WITNESS: My name is Officer Guyer.

PROSECUTING ATTORNEY: What is your occupation?

WITNESS: I work as a police officer in this community.

PROSECUTING ATTORNEY: How long have you worked as an officer?

WITNESS: I have worked as an officer for fifteen years.

PROSECUTING ATTORNEY: Please describe what you do.

WITNESS: Well, I work in the high crime area of our community. I drive my police car. If I see a need for help, I go to help. I arrest people who break the law. That is how I arrested Jerry. I saw him with Tom, who I had seen selling drugs all night.

DEFENSE ATTORNEY: Objection, Your Honor, witness is narrating.

JUDGE: Counsel, please ask more specific questions.

PROSECUTING ATTORNEY: Yes, Your Honor.

Defense Counsel asks questions of Officer Guyer

DEFENSE COUNSEL: You don't like Jerry, do you?

OFFICER GUYER: I don't know Jerry.

DEFENSE COUNSEL: But you stopped him when all he did was walk on a public street at night, didn't you?

OFFICER GUYER (acting nervously): I had valid reasons to stop him.

Suppression Hearing

Lesson 3: Preparing the Arguments

Objectives

- Students will identify the consequences of an illegal stop and an illegal search.

Estimated Time

One to two 50-minute class periods.

Materials

Copies of handouts — Instructions for Judges, Instructions for Defense Counsel, Instructions for Prosecutors, Instructions for Officer Guyer, and Instructions for Jerry.

Vocabulary

None.

Procedures

■ Divide the class into five groups numbered 1 through 5, each group having as even a number as possible.

■ There are five sets of instructions, one for each group. Give the appropriate instructions to each student in each group. For example, give a copy of the Judge's instructions to every person in group 1.

■ Review the instructions with each group:
The judges in group one will listen to the witnesses give testimony and they will listen to the arguments of the lawyers. They will ask questions and decide the case.

To prepare, they should read through the rules and the case and write down questions that they would like to ask each lawyer (the prosecutor and defense counsel).

All the group 2 members should be defense counsel who represent Jerry. They should work together to write questions for Jerry. They will have five minutes to question Jerry. They should also write questions to question the officer. They will have three minutes to question the officer.

It is the defense lawyer who is making the "motion to suppress," so the defense lawyer goes first.

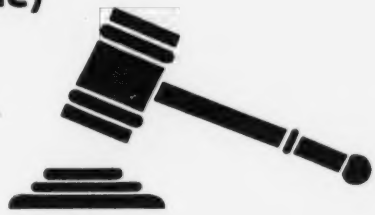
All the members of group 3 are prosecutors. Their job is to show that the police followed the law. Students playing the prosecutors should be prepared to question the police officer. They will have five minutes to question the officer. They will also question Jerry within a three-minute limit.

All the group 4 members will be police officers who will be called to testify. They should review their instructions and be prepared to answer questions about what happened and what they did.

All the group 5 members will be Jerry who will testify what happened to him. Each should review the instructions for Jerry.

Have students prepare this for the remainder of the class.

Instructions for Judges (Group One)



You will listen to the witnesses and the lawyers. You will decide whether or not the cocaine can be used as evidence. The cocaine can only be used as evidence if the police legally stopped Jerry.

THE LAW:

- *If the stop was not legal, taking the cocaine was not legal.*
- *The police have a right to go up to anyone and ask questions. A person is free to leave.*
- *If a person is not free to leave, the police must have a good reason to stop them. Officer Guyer must have had a good reason to believe that Jerry was involved in illegal activity.*

You must decide whether or not Officer Guyer had a good reason to stop Jerry.

When each witness is called to speak, you should say, "Do you affirm that you will tell the truth?"

As you listen to the arguments and the witnesses, write down the important arguments and facts.

Defense Lawyer's Arguments:

Prosecutor's Arguments:

Questioning of Jerry:

Questioning of Officer Guyer:

Your Decision:

I find that the cocaine (will or will not) be admitted.

Reasons:

Instructions for Defense Counsel (Group 2)

You represent Jerry. You represent people charged with a crime. You want Jerry to be released.

You want to keep the cocaine out of evidence. Without the evidence, the prosecutor will dismiss the case. Then Jerry will go free.

- *The cocaine can only be used as evidence if Officer Guyer legally stopped and searched Jerry.*
- *If the stop was not legal, taking the cocaine was not legal.*
- *The police have a right to go up to anyone and ask questions. A person is free to leave in that case.*
- *If a person is not free to leave, the police must have a good reason to believe that the person is involved in a crime. Officer Guyer must have had a good reason to believe that Jerry was involved in crime.*

Your job is to make a short statement to the judge. You might begin by saying:

> Your Honor, I am the defense counsel for Jerry. I ask the court to suppress the cocaine. Officer Guyer did not have a good reason to believe that Jerry was involved in crime. The officer only saw Jerry walking with a man. It was late at night. It was in a high crime area. People have the right to be on the street at night.
>
> This is not enough information to stop Jerry against his will. The officer forced Jerry to put his hands on the top of the police car. He made him empty his pockets. This violated Jerry's rights. The cocaine should not be allowed into evidence.
>
> Thank you, Your Honor.

Then you will ask Jerry to come to the stand. You will ask him questions.

Ask Jerry his name. Ask where he works. Ask what happened the night he was arrested.

After Jerry answers your questions, the prosecutor will have a chance to ask Jerry questions.

Instructions for Prosecutors (Group 3)

You represent the State. You want to see that criminals are punished.

In order to punish Jerry for cocaine, you must be able to use the cocaine in evidence. The cocaine can only be used as evidence if Officer Guyer legally stopped and searched Jerry.

- *If the stop was not legal, taking the cocaine was not legal.*
- *The police have a right to go up to anyone and ask questions. A person is free to leave in that case.*
- *If a person is not free to leave, the police must have a good reason to believe that the person is involved in crime. Officer Guyer must have had a good reason that Jerry was involved in crime.*

Your job is to make a short statement to the judge. You might begin by saying:

> Your Honor, I am the prosecutor. The cocaine should be allowed into evidence. Officer Guyer had a good reason to believe that Jerry was buying drugs. Jerry was walking in a high crime area. It was late at night. He was walking with Tom. The police had reasons to believe Tom was selling drugs.
>
> Jerry was properly stopped. The police found cocaine in Jerry's pocket. This was a legal search. The cocaine should be allowed into evidence.
>
> Thank you, Your Honor.

After Jerry answers questions from the defense counsel, you will have a chance to ask Jerry questions.

You will then call Officer Guyer to the stand. The Judge will ask the Officer to affirm that he will tell the truth.

Ask the officer his name. Ask where he works. Ask what happened the night he met Jerry.

Instructions for Officer Guyer (Group 4)

Your name is Officer Guyer. You work on the Victoria Police Force. You have been an officer for eight years.

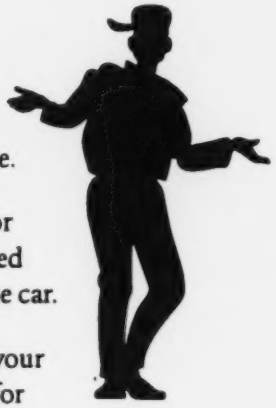
You were working in a high crime area the night you arrested Jerry. You noticed Tom late at night. He was standing on the corner. He went up to several cars. He spoke to the drivers. When the police car came by, Tom walked away.

Twenty minutes after the third time Tom did this, you saw him walking with Jerry. You went up to them in your car. You asked if you could talk to them. You asked them to empty their pockets. You asked them to put their hands and the contents of their pockets on the car. You continued to question them. Each denied using or having drugs. You searched them both. You found cocaine in Jerry's pocket.

You arrested Jerry.

You should answer the lawyer's questions.

Instructions for Jerry (Group 5)



Your name is Jerry Richardson. You are unemployed. You were walking on the street with Tom. It was late at night. Officer Guyer drove over next to you. He stopped you. You did not feel free to leave.

The officer got out of the car. He asked if he could speak with you for a few minutes. The officer asked you to empty your pockets. He asked you to put the contents of your pockets and your hands on the police car.

You emptied your pockets and put your hands on the car. You kept your hands on the car. You brought out your driver's license when asked for identification. You told the officer you live in another area of town. You said you had been in a bar. You said you were heading to your parents' home.

You denied using or having any drugs. The officer found cocaine in your pockets.

You should answer the questions that the lawyers ask you.

Suppression Hearing

Lesson 4: Making the Arguments

Objectives

- Students will conduct a suppression hearing.

Estimated Time

One 50-minute class period.

Materials

None.

Vocabulary

None.

Procedures

■ Create teams by selecting one person from each of the five groups until all the students are assigned.

■ Have the students enact the hearing in triads. The defense lawyer goes first. The defense lawyer will ask Jerry to come to the stand to tell what happened. Then the prosecutor will ask questions of Jerry. Jerry will step down. The prosecutor will call Officer Guyer for questions. Then the defense counsel will question Officer Guyer.

■ Have the judges report back how each decided and why.

■ Debrief the exercise by asking students about what they saw.

■ Have volunteers come forward to conduct the hearing in front of a real judge in a later class.

Suppression Hearing

Lesson 5: Conducting the Suppression Hearing

Objectives

- Students will demonstrate their understanding of the exclusionary rule.
- Students will interact with a judge who will give them practical advice about search and seizure law.

Estimated Time

One 50-minute class period.

Materials

None.

Vocabulary

None.

Procedures

■ Begin the class by introducing yourself and putting the students at ease. Tell students that the purpose of this hearing is to familiarize them with the legal process and to give them a chance to practice giving testimony in court.

■ Have the teacher assist you in setting up the room for the suppression hearing.

■ Conduct the case and then issue a ruling.

Tell the defense counsel to call Jerry, its only witness. Let the prosecutor question Jerry.

Tell the prosecution to call Officer Guyer, its only witness. Let defense counsel question the Officer.

Your State

Is there a similar case in your state?

■ You might inform the students that this role-play is roughly based on the case of *State v. Richardson*, 825 P. 2d 754 (1992). In this case the court ruled that the initial contact with Jerry was lawful but that when the officer had Jerry put his hands on the car and empty his pockets, the stop became a seizure.

Under these facts the seizure was unreasonable, and Jerry's conviction was reversed and the charges dismissed. Specifically the court ruled that:

1. The initial contact with Jerry was lawful since it did not intrude upon Jerry's liberty or privacy.
2. Jerry was "seized" at the point that Officer Guyer had Tom and Jerry empty their pockets and place their hands on the patrol car while he questioned them. Jerry and any reasonable person would not have believed that they were free to leave.
3. Officer Guyers' conduct was not reasonable. A person's presence in a high crime area does not, by itself, give rise to a good enough reason to stop him. Nor does an individual's being close to others independently suspected of criminal activity justify a police stop. The suspicion must be individualized. Officer Guyer had a good reason to believe that Tom was engaged in crime, but not that Jerry was. At the time of the

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seizure all that Officer Guyer knew was that Jerry was in a high crime area, late at night, walking near someone the officer suspected of "running drugs." He had not heard any conversation between the men and had not seen any suspicious activity between them.

4. Since the stop of Jerry was illegal, the search of his person was also illegal. The cocaine cannot be used as evidence against him. His conviction was vacated and the case dismissed.

■ You might then invite students' questions about the judge's role in judging police stops.

Searches

Description of the Unit

Students will explore the tension between privacy and law enforcement in a hypothetical. They will learn the state and federal constitutional rights against unreasonable searches. The judge will assist them in analyzing two search case studies.

Searches

Lesson 1: Privacy Versus Law Enforcement

Objectives

- Students will list the U.S. Constitution as a source for law regarding searches.
- Students will identify the competing values of police powers to enforce the law versus privacy interests of individuals underlying search law.
- Students will define the exclusionary rule.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

Two 50-minute class periods.

Materials

Copies of handouts — The Neighbor; U.S. Constitution.

Vocabulary

- **Burglary** is the crime of breaking into a building with the intent to commit a crime.
- **Law enforcement** are government workers whose job is to keep the peace.
- **Privacy** is the right to be let alone.
- **Search** is the prying into a hidden place.
- **Seizure** is the taking of another's property.
- **Search warrant** is a court order authorizing police to search a person or property.

Procedures

■ You might want to begin this class by asking two students to come forward (get the students' consent in advance of class). Have one student take the other student's purse/bookbag and open it to look what is inside.

■ Before the student gets very far into the purse/bag, the student should stop. The teacher should ask students how they are feeling. Tell students that sense of invasion of privacy that many of them feel is the subject for today's class.

■ Pass out the Neighbor handout. Have students read the story and discuss what the police should do and why.

■ Tell students that this story presents the conflict in search law of the privacy of individuals versus society's need for protection through enforcement of the laws, including officer safety. You might even draw a balance scale with privacy on one side and safety on the other.

■ Explain that in American society, the Fourth Amendment to the U.S. Constitution (and so does the State Constitution) protects against illegal searches. Under these rights, Jim will probably not have the right to have the police search Bob's home. Later students will examine why.

■ Have students refer to the U.S. Constitution handout. Tell students to underline the important words.

■ Put the underlined sentence on the board or overhead and explain that through court interpretations *the Fourth Amendment bans unreasonable government searches of private areas.*

■ Define each of these phrases, giving examples:

- **Private areas** means what places society protects as private. Ask students what areas are private. Answers should include their homes, their personal belongings and papers, their conversations on the telephone, their cars, and their bodies.
- The search must be conducted by the **government.** This includes anyone who is an agent of the government.
- Whether or not a search is **unreasonable** depends upon the facts of each case. As a general rule, searches with warrants are reasonable and searches without warrants are unreasonable unless they fall within one of the stated exceptions to the warrant requirement.

The Neighbor

Burglars broke into Jim's house. They took some money, his wallet, and his television. They also took all the meat he had in his freezer.

The day after the burglary, the police arrested Bob in a 7-11 store. Bob was trying to use Jim's credit card to buy cigarettes. Bob lives in the house next to Jim.

Jim believes that his television and his frozen meat are in Bob's house. He wants the police to search Bob's house.

What should the police do?

Searches Under the U.S. Constitution

United States Constitution, Fourth Amendment, Modified

The government may only do reasonable searches. Generally, the government must have a search warrant before they search property, or arrest people in their homes.

Underline the important words above in the Constitution.

The Fourth Amendment bans:

1. unreasonable searches
2. by the government
3. of private areas.

Searches

Lesson 2: Applying the Law

Objectives

- Students will identify legal requirements of searches with and without a warrant.
- Students will define the exclusionary rule.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — Search Cases.

Vocabulary

- **Consent** is agreeing to a search.

Procedures

■ Introduce yourself to the class and tell a little about yourself, if this is your first class with students. Let students know that today's class will review the rules about privacy and police searches. Students will have a chance to do two case studies in class.

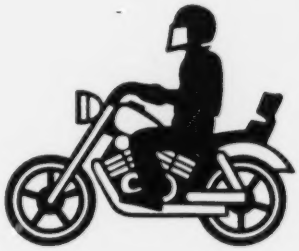
■ Pass out the Search Cases and read aloud. Have students work in pairs to answer each case. Debrief the class by asking students how they ruled and why on each of the two cases.

■ Provide students with the answers stated below. Answers to the Search Cases:

1. In *McWatters v. Washington*, 63 Wash. App. 911, the Court of Appeals ruled that the search was permissible. Under these facts, the medical worker is not an agent of the police, so that this is a private search not covered by the Fourth Amendment.
2. In *Stokes v. State*, 548 So. 2d 118 (1989), a state supreme court ruled that the search was constitutional since Mrs. Stokes had common authority over the room and that Phillip did not have a reasonable expectation of privacy in his room.

■ You may want to conclude with a discussion of the role that judge's play in police searches. You may want to bring in actual search warrant that you recently issued and its return. You may want to tell students what happens to evidence that is not properly obtained.

Search Cases



Directions: Decide whether or not the search is legal.

1. Rodney McWatters was injured in a motorcycle accident. McWatters was conscious when the medical worker arrived. McWatters was lying face down on the street. The medical worker cut away his clothes. He rolled McWatters on his back. He wanted to see how badly McWatters was hurt.

   He found a bag containing $11,000 on his stomach. The medical worker searched Mr. McWatters' clothing for valuables. This is the procedure that workers normally use. It prevents false claims that the medical worker stole something from the injured person. In Mr. McWatters' pants, the medical worker found a knife, notebook and heroin. The medical worker gave the money and drugs to the police.

   Did the medical worker do a legal search?

2. Phillip Stokes lived with his mother, Mrs. Stokes. Mrs. Stokes paid the rent. Mrs. Stokes kept her sewing machine in her son's room. Once in a while she went into his room. Phillip kept the door locked most of the time.

   One day the police come to investigate a murder they think Phillip committed. They ask Mrs. Stokes if they may search Phillip's room. She agrees. They search the room. They find evidence that links Phillip to the murder.

   Did the police do a legal search of Phillip's room?

Working With the Police

Description of the Unit

In this unit students discuss the role of the police, and how that role compares with the role of police or law enforcement in their native country. Then students examine hypothetical crime situations and discuss how to handle these situations. Correct procedures for calling 911 are learned through scripted calls, and students identify rules for appropriate use of 911. Finally, students observe a staged crime, and learn about being a good witness.

Working With the Police

Lesson 1: The Role of the Police

Objectives

- Students will discuss and identify situations when they should call the police.
- Students will analyze hypothetical crime situations and decide what to do.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50 minute class period.

Materials

- Copies of handouts — Scripted Calls (located with this unit's Lesson 2 — for role-players to use in next class).

Vocabulary

None.

Procedures

■ Introduce the topic of working with law enforcement by writing the word "police" on the board and asking students how they feel about the police. What role do the police play in American society? Do we need them? If so, why do we need them?

Ask students how the role of law enforcement in the U.S. compares with the role played by police in their native country?

- The police in the U.S. are charged with enforcing the laws and keeping order. They make arrests and investigate crimes, but more of their time is usually spent "keeping order," by helping settle family and neighborhood disputes, patrolling the streets, etc.
- One difference between the police in the U.S. as compared with other countries is that in the U.S., police departments are very decentralized. There are many different police forces: the federal law enforcement agencies such as the FBI, state police, city police, and county police and sheriffs. Law enforcement is not controlled by the national government, but by many different, local groups. This probably came about from a fear that a strong national police force could have too much power.

■ When should someone call the police? Ask for examples of times that a citizen should ask for assistance from the police or notify them.

Examples could be:

- To report a crime in progress.
- To report suspicious activity in front of your house.
- To get help if you are a victim of domestic violence.
- To report an incident of child abuse.
- To report an injured person in need of help.
- To report a crime already completed, like a stolen car or break-in of your home.
- To get help with a mentally ill person.

■ Read the following situations, and ask students how they think a concerned neighbor or citizen should react. (Probably best to call 911 in each situation.)

1. It is 8 p.m. Your neighbors are still at work. You look out your window, and see two men carrying a TV and stereo out of your neighbor's house.
2. You are walking through a parking lot after work. You see a man trying to force open a locked car. He keeps looking around to see if someone is watching. When he sees you, he walks away from the car.
3. Your neighbors are out of town. You see a man you do not know walking around their back yard, looking at the house.

■ How does one contact the police?

The quickest way to contact the police is by calling 9-1-1.

■ Tell students that they will be enacting calls to 911 in the next class. Ask for 4 volunteers, two for each scenario. Two volunteers will be callers, and two will be 911 operators. Give the volunteer actors their scripts, which are located following Lesson Two. Ask them to review the Handouts, and be prepared to read their roles in the next class.

Working With the Police

Lesson 2: Making 911 Calls

Objectives

- Students will enact scripted calls to 911 and identify what the callers did correctly and incorrectly.
- Students will describe and list rules about calling 911.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50 minute class period.

Materials

Copies of handouts — Call #1; Call #2; Rules.

Your State

Does your state or community have 911 service? If so, how does it work? Are interpreters available for non-English speakers?

Procedures

■ Tell students that today some of them will be actors, playing the roles of callers and 911 operators. The rest of the class will be observers, looking for what the callers did right and wrong. Pass out Call #1 to each student.

■ Take the four actors selected at the end of the last class aside, and make sure they have reviewed the scripts, and understand what they are to do. Set up the front of the room, with the caller and the operator in chairs, not facing each other. If you can, bring in phones as props.

■ Remind the rest of the class that they are to watch the simulation carefully, and listen for what the caller did correctly, and what the caller did wrong. Tell them to take notes.

■ Ask caller #1 to make the call. After the call is completed, thank the actors, and give them a hand. Then ask the class for feedback on the call. What did the caller do wrong? What could be improved? Make sure you explain to the rest of the class that the role-players in Call #1 were illustrating how *not* to make a 911 call, and that the role-players themselves would not make a 911 call this way.

The caller did not:

- *Tell the operator who is screaming, or why she is screaming.*
- *Listen to the operator or answer her questions.*
- *Know her own address.*
- *Know the direction of her neighbor's house in relation to her own, or the color.*
- *Stay on the line (she hung up).*

■ Then switch the actors, and ask caller #2 to make the call. Again, ask the class for feedback. What was different about this call? What did the caller do correctly? Any suggestions for improvement?

The caller:

- *Told the operator that it was an emergency.*
- *Asked for the police.*
- *Knew the address of her neighbor.*
- *Knew her own address.*
- *Knew the husband owned a gun.*
- *Answered the operator's questions and stayed on the line.*
- *Requested confidentiality.*

■ Ask the class what rules they can think of for calling 911, based on the two calls they just observed.

The callers should:

- *Tell the operator immediately whether or not it is an emergency.*
- *Tell the operator what they need; for example, whether they need the police, an ambulance, or the fire department.*
- *Listen to the operator and answer questions.*
- *Know key words such as "fire," "accident," "ambulance," "break-in," "emergency," "choke."*
- *Know their name, address and phone number.*
- *Know directions such as which way is north or south in relation to their house.*

■ Ask students to read the rules listed on the handout aloud, and check for understanding about each one.

■ Students may ask what if someone calls 911 accidentally? For example, what if a child calls by mistake? Explain that the police may be dispatched to the home, even if the call is a mistake. The residents should explain what happened. The police have an obligation to see that there is no emergency, so cooperation with them is the best policy.

What if someone calls 911 as a prank, or to harass the operator? If a caller intentionally harasses the 911 dispatcher, they could be prosecuted.

■ To give students more practice, ask them to make up scenarios for 911 calls. Have one student play the caller, and one student play the operator, while the rest of the class listens. Debrief each call, referring to the rules.

Other information about 911: The operator can dispatch a patrol car to the scene while talking to the caller, and will do this if it is an emergency. Calls are coded for precedence, depending on the level of emergency. Highest precedence is given to calls regarding serious crimes in progress such as armed robbery, shooting, stabbing, or an officer in need of assistance. Next highest is a crime in progress where there is a strong chance the suspect can be apprehended or an officer can prevent a serious crime. This also includes physical disturbances, prowlers, injured persons, injury accidents. Calls regarding minor incidents or crimes that are already "completed" such as a break-in discovered the next day are lower precedence.

Some students may ask: Don't the operators have your phone number and address? While the 911 operator has information about the origin of the call, such as the phone number, name and address, this is not always accurate. For example, if the phone number is listed under another name, such as the person who pays the bill, that person's address and name would appear, rather than the address of the caller. Also, the address information may not be complete enough. If the phone is in an apartment building, the apartment number may not be listed.

Finally, in King County, Washington, interpreters are available to 911 callers. The callers need to be able to state what language they speak, and an interpreter will come on the line.

Finally, while the caller can request to remain anonymous, the operator will still ask for name and address. Should the matter ever go to court, the caller could be called as a witness, if they have important information about the case.

Explain that while medical emergencies are appropriate for 911 calls, the caller will still be responsible to pay for an ambulance if one is called to take a person to the hospital.

■ In preparation for the next class, ask for two volunteers for a role-play. [In the alternative, ask someone who is not in the class to play the role of the purse snatcher. This way, the suspect will be totally unfamiliar to the students, and all students can participate in the process of describing the suspect. You would then just need one volunteer from the class, the victim.] At the end of class, take the two volunteers aside and explain that they will stage a purse snatching at the beginning of the next class. Ask the purse snatcher to wear some unusual clothing, and to disguise himself or herself as much as possible, so that the class will not immediately recognize him or her. (Suggest a hat, wig, sunglasses, scarf over the face, unusual clothing such as a heavy overcoat, sweatshirt with writing on it. The idea is to have details regarding clothing that the class will try to remember about the suspect.) The victim of the crime will need a purse or bag carried over the shoulder.

Tell the volunteers to wait outside of class and to be prepared to do the role-play at the very beginning. The victim should enter first, carrying the purse or bag, and head to his or her seat, perhaps by a circuitous route. The snatcher should then run into the room, grab the bag, and then leave immediately. It all should happen very fast.

Invite a judge to teach the next class. You should assist the role-players, and send them into the room, just as the judge has finished introducing himself or herself. After the snatching, help the suspect remove his or her disguise, and tell him or her to return to the classroom and sit in the back, as inconspicuously as possible (if the suspect is a member of the class).

Call #1

OPERATOR: "Police and Fire, Operator number 22."

CALLER: "Help! She is screaming for help!"

OPERATOR: "Who is screaming for help?"

CALLER: "She is screaming Help, Help!! I don't know what to do. Tell me what to do. I have never heard her scream like this. What do I do?"

OPERATOR: "Please calm down, listen to me and answer my questions. Who is screaming and where is the person located?"

CALLER: "My neighbor across the street, Maria."

OPERATOR: "What is the address?"

CALLER: "I don't know."

OPERATOR: "What is your address?"

CALLER: "I don't know."

OPERATOR: "Are you calling from 406 First St.?"

CALLER: "Yes, I think that is it."

OPERATOR: "Where is Maria's house from your house?"

CALLER: "Down the street."

OPERATOR: "In what direction? North? South?"

CALLER: "I don't know."

OPERATOR: "What color is her house?"

CALLER: "I don't know. I have to go." [Hangs up]

OPERATOR: "Hello? Hello?

Call #2

OPERATOR: "Police and Fire, Operator number 30."

CALLER: "Yes. I think this is an emergency. Please send the police. My neighbor across the street is screaming for help."

OPERATOR: "What is the address?"

CALLER: "403 First St."

OPERATOR: "Do you know why she is screaming?"

CALLER: "I think she and her husband had a fight again."

OPERATOR: "Did you see any weapons, like a gun or knife?"

CALLER: "I don't know. I do know he has a gun he has threatened to use before, but I don't know whether he has it now."

OPERATOR: "What is your address?"

CALLER: "406 First St."

OPERATOR: "What is your name and telephone number?"

CALLER: "Pat Chan. I would rather you did not use my name. My phone number is 222-4455."

OPERATOR: "I can note that we should keep your name confidential. I have already sent out a patrol car."

CALLER: "Thank you."

Rules for Calling 911

- Stay calm.
- State the problem clearly.
- Tell the operator if it is an emergency.
- Tell the operator who should come — whether you need the police, fire, ambulance.
- Know your address and, if possible, the address where the incident is taking place.
- Answer the operator's questions and let him or her control the call.
- Stay on the line — do not hang up until the call is complete.
- Request to remain anonymous if you fear for your safety (still need to give name and address).
- If you speak another language, tell the operator the language right away.

Working With the Police

Lesson 3: Witnessing a Crime

Objectives

- Students will observe a staged crime.
- Students will describe the suspect.
- Students will make a call to 911 to report the crime.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — Description Sheet.
Copy of arrest warrant (optional).

Vocabulary

None.

Procedures

■ Begin the class by introducing yourself to the students, and telling a little bit about what you do, if this is your first class. *[The classroom teacher has prepared two students to enact a role-play of a purse snatching. This will probably happen as you are introducing yourself. Just stop and observe the enactment with the students.]*

■ Ask for a volunteer to make a call to 911 to report this crime. Either you or the teacher will play the role of the 911 operator. You can refer to the scripted 911 calls students worked with in the last class for some ideas on playing this role. Tell the student to make the call to report the purse snatching, as an observer who was on the street at the time.

■ After the call, debrief with students about the call. Did the caller follow the rules from the last class? Refer them to the list of rules. Explain that this call would not be considered a high priority emergency, since the crime has already taken place. If the call is made promptly, though, there is a chance that the suspect could be apprehended, if the caller gives a good description where the suspect headed. Be sure to thank the volunteers.

■ Now, tell the students they will investigate this crime. Ask them to form pairs. One student will be a police detective, who is interviewing a witness to the crime. The detective will complete the Description Sheet. Encourage students who can draw to make a sketch of the suspect. Allow about 15 minutes for the interview.

■ Once students have completed the interviews, ask the detectives to report what they found. Use the board to list details as reported by the detectives.

■ Ask students what was hard about trying to remember what the suspect looked like. Ask the victim how he or she felt. Could he or she remember more or less than the observers?

■ Tell students whether you think there is enough evidence, based on their eyewitness accounts, to

JUDGE'S LESSON

arrest the purse snatcher. If you brought in an arrest warrant, explain what would be written on the warrant and what would happen after the warrant was issued.

■ Point out other types of situations in which they might need to describe a crime scene. Ask how they might describe a car. What would a detective want to know about the car? *(color, make, year, body style, number of doors, license number, what direction it was traveling).*

■ Finally, ask students what they have learned in this unit. Then, open the floor for discussion and questions.

Description of Suspect

Sex: _____ Race: _____ Age: _____ Height: _____ Weight: _____

Hair length/color: _____

Glasses (type): _____

Tattoos/Scars/Marks: _____

Facial Hair: _____

Type weapon: _____

Hat (color, type): _____ Tie: _____

Coat: _____ Shirt: _____

Pants: _____ Shoes: _____

Facial Appearance: _____

Hair style: _____ Shape eyebrow: _____

Sideburns: _____ Eye color: _____

Beard/moustache: _____ Nose shape: _____

What did the suspect say? _____

_____

Which way did he or she go? _____

_____

Domestic Violence — The Facts

Description of the Unit

This unit begins with a role-play about a domestic violence situation, introducing the topic. Students then discuss and compare attitudes about domestic violence in the U.S. with their native country, and learn facts about domestic violence in the U.S.

Domestic Violence — The Facts

Lesson 1: The Neighbor's Dilemma

Objectives

- Students will discuss a story about spouse abuse.
- Students will role-play an encounter between an abused wife and her neighbors.
- Students will discuss and compare attitudes about domestic violence in their native country and in the United States.
- Students will discuss and compare customs and laws about domestic violence in both their native country and the U.S.
- Students will also have the opportunity to speak, write, read, and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — The Neighbor's Dilemma.

Vocabulary

- **Domestic violence** — also called spouse abuse. Violence that occurs at home between people who live together, used to live together, or have an intimate relationship.

Procedures

■ Ask students to read the handout, or read it aloud to them.

■ After students have read the story, check for understanding by asking questions such as:

- Who are Carlos and Tina?
- Who is Maria?
- What has happened to Maria?
- What does she want Carlos and Tina to do for her?
- Why is she concerned about the child?
- What do Carlos and Tina have to decide?
- What is the dilemma?

■ Ask for volunteers to role-play the discussion between Carlos and Tina about what they should do. Ask the role-players to come to the front of the room, so that everyone can hear. If they decide to call 911, have them role-play the call.

■ After the role-play, ask the students who played Carlos and Tina how they each felt. Ask the rest of the class if the role-play seemed realistic. Would they have made a different decision? Why? What decision would they make?

■ Ask students:

- Have you heard about similar situations?
- Have you heard about this happening in your native country?
- What do women do there if they are in Maria's situation?

- What do people think about domestic violence in your native country?
- What do they think about it in the U.S.?
- Why do you think husbands abuse their wives?
- Do wives ever abuse their husbands?
- Do you know what women in the U.S. can do if this happens to them?
- What might happen next?
- In your country of origin, Maria could _____.

The Neighbor's Dilemma

Carlos and Tina wake up in the middle of the night. Someone is knocking loudly at their door. Carlos answers the door. It is their neighbor, Maria, who has been in this country for three years. They know Maria because she has asked them for help when she does not understand English. Maria is crying. Her mouth is swollen and bleeding. In her arms she is holding her six-month-old baby.

Carlos asks Maria to come in, but she refuses. She asks Carlos to take her baby and make sure he is safe. Carlos asks why. Maria replies that her husband is angry with her. She tells Carlos that he hit her on her face. He just left the apartment, but he threatened to come back soon and hurt her more.

Carlos asks Maria if he should call the police. Maria begs him not to call, saying that it would only make things worse. Carlos takes the child and goes inside. Maria goes back to her apartment. Carlos and Tina sit down and talk about what they should do.

Domestic Violence — The Facts

Lesson 2: Facts About Domestic Violence

Objectives

- Students will read, and then explain one fact about domestic violence in the United States to others in a group.
- Students will listen to other students explain facts about domestic violence.
- Students will summarize and write what they have learned about domestic violence.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — Fact Sheet.

Vocabulary

- **Assault** — a crime which can be either a threat made or an actual hitting of another person. The amount of harm inflicted or intended to be inflicted will determine the kind (felony or misdemeanor) and seriousness of the crime.
- **Domestic violence** — this term is defined as "fact #1" in the following exercise.
- **Homicide** — the killing of a human being.
- **Perpetrator** — the person committing the crime.

Note: Domestic violence is far more prevalent than most people realize. Over the last ten years, there has been a change in consciousness in the U.S. about this societal problem. While once it was often considered a private matter between husband and wife or domestic partners, it is now acknowledged as a crime. Most states have detailed laws about domestic violence, and many communities now have shelters for battered women and resources available. (Most shelters, however, have waiting lists.). The fact list just touches on major points about domestic violence. The O.J. Simpson case may further change societal attitudes.

Your State

How does your state or community handle domestic violence? How does your state law define domestic violence? Are the police required to arrest abusers? Are there shelters for victims of domestic violence in your community?

Procedures

■ Divide the class into eight groups of 2 to 4 students each, numbered "1" through "8." Pass out the domestic violence fact sheet, and ask each group to read aloud and familiarize itself with the numbered fact that corresponds with their group

number. (Group #1 will discuss fact #1, etc.) Give groups 15 minutes to discuss, and make sure each group member understands their fact and how to explain it. (If the class has fewer than 16 students, you may assign each group two facts.)

■ Use the jigsaw method to reconfigure the groups: Ask the students within each group to count off (1 through 2, 1 through 3, or 1 through 4, depending on how many students in each group). Then ask all of the "1's" to form a new group, all of the "2's" to form a group, etc. You should then have 2 to 4 groups with 8 students each.

■ Once the new groups have formed, ask each student to teach the others in their group their fact about domestic violence. Allow each student time to share their fact with the group, about 25 minutes.

■ Once everyone has shared and explained their fact with their group members, lead a discussion with the entire class about what they have learned. Questions to stimulate discussion could include: Were you surprised to learn this information? What surprised you? What had you heard before about domestic violence? Where did you hear about it? Do you think there is more domestic violence in America or in your native country? Give your reasons.

■ As homework, suggest that students write about what they learned about domestic violence. For lower level classes, you may ask students to write three things they learned. For higher level classes, you may ask students to write two paragraphs about what they learned.

Domestic Violence Fact Sheet

1. Domestic violence is also called spouse abuse. It is violence that occurs at home between people who live together, used to live together, or have an intimate relationship.

2. Types of violence include hitting, choking, kicking, assault with a weapon such a gun or knife, shoving, biting, and rape.

3. Domestic violence is a crime. The person who is violent can be arrested. Only one in ten domestic violence cases are reported to law enforcement officers. Domestic violence is the most frequently occurring crime in the nation. [FBI statistics.]

4. Most victims (80 to 90%) of domestic violence are women. 25% to 30% of women were pregnant when they were physically abused. Domestic violence is the leading cause of injury to women in the United States. In Washington State in 1991, more than one out of every four homicides resulted from domestic violence. [Washington State Department of Health; Final Report of the Washington State Domestic Violence Task Force, 1991.]

5. Most people who abuse their spouses have learned this behavior, usually by observing it in their own family. For example, a child who grows up seeing his father hit his mother may become an abuser. [Final Report, above]

6. Domestic violence in the U.S. happens to people of all ages, and in all cultural, racial, socio-economic, educational, occupational and religious groups. [Final Report, above.]

7. Abusers have a great need to be in control of others, especially of the victim. [Final Report, above.]

8. Many women who are abused are afraid or ashamed to get help, especially if they don't speak English.

Domestic Violence — The Law

Description of the Unit

In this unit, students examine the laws about domestic violence. Washington State law is used as a model, but teachers from other states should find their own state's law for their students. Students review the fact scenario about Carlos, Tina, and Maria from the previous unit and discuss how the law would apply to this situation. The final lesson focuses on how to obtain an Order for Protection, using sample forms from a court.

Domestic Violence — The Law

Lesson 1: Maria Seeks Help

Objectives

- Students will identify how Maria can seek help from the legal system.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — Sample Petition for Order for Protection. (Note: this Petition is a sample only. Forms for filing in court will vary from state to state. In Washington State, all forms will be revised in the fall of 1994 to make them uniform across the state.) If you are aware of brochures from local agencies that work with victims of domestic violence, make those available to students, especially if any are printed in other languages.

Vocabulary

- **Dissolution** — a legal action to end a marriage.
- **Paternity** — a legal action to determine who is the father of a child.
- **Petitioner** — person who brings a court action; for purposes of this lesson, the victim of domestic violence.
- **Protection order** — legal order to protect someone from harm.
- **Respondent** — the person required to respond to a court case. For example, in an Order of Protection, the respondent is the person who is charged with the violence and is being served.
- **Service** — formal notice of a legal action, by giving the court papers to the respondent.

Your State

Find out what your state law says about domestic violence. Is there a procedure for an abused spouse to get a protection order without an attorney? How else can someone seek help through the legal system?

Procedures

■ Review the case study about Carlos, Tina, and Maria in Lesson One of the previous unit, Domestic Violence—The Facts. Discuss what Carlos and Tina decided to do about their neighbor Maria in the previous class. What were their feelings and concerns about the situation?

■ Tell students they should now assume that Maria left home and is now in a confidential shelter (with an unlisted address), where she can stay for one month. She has decided to seek help from a legal services agency/court-based project. [Insert the local agency or group that would be most appropriate for a victim to consult in your area.] She wants to know what she can do so that she and her child can be safe from her husband.

■ What questions would she want to ask? Divide students into groups and ask each group to come up with at least three questions Maria should ask the lawyer.

■ Tell students that next class they will participate in a role-play between Maria, Tina, and two counselors or lawyers from the center. Maria has decided to ask for an Order for Protection. Give students copies of the Petition for Order for Protection. Go over this form, which is used by persons seeking a court order to prevent further abuse. The form is designed to make it easy for an abused person to file it without the help of an attorney. Ask students to try to complete the form before the next class, or have them work in groups to complete the form, as if they are Maria.

Note: Many immigrants fail to seek help because they fear deportation. U.S. Immigration Law requires that the citizen or resident spouse petition on behalf of the immigrant husband or wife for conditional residency. After a two-year wait, the couple must jointly file for the immigrant's permanent residency.

If this doesn't happen, the immigrant spouse remains deportable. The purpose of this law was to reduce marriage fraud. However, it can also have the effect of encouraging abuse. A violent spouse can use the threat of deportation to keep the victim silent and submissive.

Congress addressed this problem in 1990. It added a battered spouse waiver to the immigration law. The waiver permits an immigrant who has already received a conditional residency to leave her spouse before the full two-year wait is up and to petition for permanent residency on her own behalf—if she can prove abuse.

Obtaining a waiver is not easy. The waiver does not yet cover women whose husbands never filed for their wives' conditional residency in the first place. These women, even though legitimately married to a U.S. citizen or permanent resident, remain undocumented, with no legal right to stay in this country.

Now Congress is considering a change in immigration law to allow undocumented, battered immigrant spouses to start the process for conditional residency themselves. Deportation of these immigrants would be suspended. [*The Seattle Times*, 8/9/94.]

Superior Court of Washington
County of King

Petitioner,

vs.

Respondent.

NO.

PETITION FOR ORDER FOR PROTECTION

1. PETITIONER'S AFFIDAVIT (STATEMENT)
(Print or write clearly)

1.1 I, _____, am petitioning for an Order for Protection from domestic violence.

1.2 I am 16 years of age or older. Yes or No (circle one).

1.3 I reside at _____ City _____, in _____ County, Washington. (If you do not want respondent to know where you are now living, you may name only the county.)

2.1 The name of the respondent is _____.

2.2 The respondent is 16 years of age or older. Yes or No (circle one).

2.3 Respondent resides at _____, in _____ County, Washington.

3.1 My relationship with the respondent is:

[ ] Spouse
[ ] Former spouse
[ ] Presently dating
[ ] Dated in the past
[ ] Related by blood
[ ] Related by marriage (in-law)
[ ] Have a child in common
[ ] Parent-child (biological or legal)
[ ] Presently reside together
[ ] Resided together in the past
[ ] Other (specify): _____

4.1 Additional facts relating to respondent include:

(a) [ ] I have lived in the same residence as the respondent since _____ (date).

[ ] I left our shared residence on or about _____ (date).

[ ] Respondent left our shared residence on or about _____ (date).

[ ] Respondent and I have never resided together.

(b) [ ] A marriage dissolution, paternity, custody, or protection order action is on file between respondent and myself in:

_____ _____
Name and location of Court Case Number

(c) [ ] I believe there is a criminal action on file against the respondent for:

_____ in _____
Charges Name, Location of Court and Date Filed

5.1 [ ] The following minor child(ren) live with me:

Name	Date of Birth	Relationship to Petitioner	Relationship to Respondent

5.2 [ ] The respondent and I are the parents of the following minor child(ren) who do not live with me:

Name	Date of Birth	Name	Date of Birth

6.1 I am the victim of domestic violence committed by respondent as follows: (Describe specific acts and approximate dates of domestic violence. Please indicate if the police were notified and if medical treatment was sought. Domestic violence includes inflicting or threatening physical harm, bodily injury and assault, including sexual assault.)

II. REQUEST FOR TEMPORARY ORDER

7.1 An emergency exists, and I need a temporary protection order issued immediately without notice to the respondent to avoid irreparable injury. I request an immediate Temporary Order for Protection that will:

a. [ ] Restrain respondent from causing me or any of the minor child(ren) named above any physical harm, bodily injury, assault including sexual assault; and from molesting, harassing or threatening me or any of the child(ren) named above.

b. [ ] Exclude respondent from my residence at _____ and from within _____ feet of my residence and work place. (If you do not want respondent to know where you are now living, you may name only the county.)

c. [ ] Respondent is restrained from [ ] contact except through legal counsel, [ ] harassment of any kind in person, by mail, by phone, on the street, at work (or school or day care), through third parties, either directly or indirectly.

d. [ ] Require respondent to immediately cause the transfer or surrender of custody of the above named minor child(ren) to the petitioner (or designee).

e. [ ] Designate that the minor child(ren) shall reside with [ ] mother or [ ] father and establish visitation arrangements for the above named minor child(ren).

f. [ ] Restrain respondent from removing any of the children named above from the State of Washington.

g. [ ] Other: _____

III. REQUEST FOR ORDER FOR PROTECTION

8.1 I request an Order of Protection that will:

a. [ ] Restrain respondent from causing me or any of the minor child(ren) named above any physical harm, bodily injury, assault including sexual assault; and from molesting , harassing or threatening me or any of the child(ren) above named.

b. [ ] Exclude respondent from my residence at _____ and from within _____ feet of my residence and work place. (If you do not want respondent to know where you are now living, you may name only the county.)

c. [ ] Respondent is restrained from [ ] contact except through legal counsel, [ ] harassment of any kind, in person, by mail by phone, on the street, at work (or school, or daycare) through third parties, either directly or indirectly.

d. [ ] Require respondent to immediately cause the transfer or surrender of custody of the above named minor child(ren) to the petitioner (or designee).

e. [ ] Designate that the minor child(ren) shall reside with [ ] mother or [ ] father and establish visitation arrangements for the above named minor child(ren).

f. [ ] Restrain respondent from removing any of the children named above from the State of Washington.

g. [ ] Direct respondent to participate in appropriate treatment or counseling services.

h. [ ] Require respondent to reimburse me for my costs and expenses in bringing this action.

i. [ ] Require respondent to pay the filing fee and court costs incurred in bring this action.

j. [ ] Other: _____

IV. PETITION FOR SPECIAL ASSISTANCE FROM LAW ENFORCEMENT AGENCIES

(The following request applies only if you need law enforcement assistance and shall apply to the requests in b and d above.)

9.1 I request the court to order the appropriate law enforcement agency to:

a. [ ] Assist me in obtaining possession of my residence/personal belongings at:

_____

b. [ ] Respondent must make arrangements for law enforcement to provide a civil standby while the respondent removes his/her personal belongings from the residence at_____.

c. [ ] Assist me in obtaining the transfer or surrender of custody of the above named minor child(ren).

d. [ ] Provide the following help in enforcing the Order of Protection:

_____

_____

V. CERTIFICATION OF STATEMENTS IN THE PETITION

I certify under the penalty of perjury, under the laws of the State of Washington that I have read the statements in the Petition, know the contents thereof, and believe them to be true and correct.

SIGNED at Seattle, Washington on (date)_____.

_____

Signature of Petitioner

Domestic Violence — The Law

Lesson 2: Order for Protection

Objectives

- Students will listen to and interact with a judge who will explain how the legal system handles cases of domestic violence.
- Students will role-play a meeting between Maria and her lawyers/counselors.
- Students will have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — The Law.

Vocabulary

- **Civil legal system** — the part of the court system that handles disputes between private citizens. Civil cases include divorces (dissolution), contract disputes, auto accidents, and consumer disputes.
- **Criminal legal system** — the part of the court system that prosecutes persons accused of crimes.
- **Prosecutor** — The lawyer who represents the government in criminal cases. The prosecutor files charges against the person who allegedly committed the crime.

Procedures

■ Tell students that they will be role-playing a meeting between Maria and lawyers or counselors.

■ Set up the front of the room for the role-play, with two chairs on either side of a table. The players will include: two lawyers/counselors from the center, Maria, Tina, and Maria's neighbor, who has agreed to accompany Maria to the center. She will help Maria ask and answer questions.

(You may play the role of one of the lawyer/counselors, or ask for students to play both of these roles. Discuss with the classroom teacher beforehand whether s/he thinks students will feel prepared to play these roles.)

■ Pass out the handout about the law, and review it briefly with students. Do not go into detail, as you can bring up points about the law when debriefing the role-play. Ask for volunteers to play the roles described. Tell "Maria" and "Tina" that they want to know what Maria can do. Should she ask for an Order for Protection? How else can the legal system help her? Tell the rest of the class to watch and write down the options the counselors suggest. Allow 10 to 15 minutes for the role-play.

■ After the role-play, first ask the volunteers how they felt about their roles. Did it feel realistic? Elicit feedback from the rest of the class. Did they think it seemed realistic? Did the advisors give Maria all of the information she needed to know? What else would you have wanted to know? What else would you have told Maria? Was Tina helpful?

JUDGE'S LESSON

■ Tell students that it costs $20 to file for an Order for Protection. The fee can be waived if the person cannot afford to pay.

> **Your State**
> How much does it cost to file for an Order for Protection in your state?

■ Tell students that a Temporary Order for Protection can be issued immediately if the person needs *immediate* protection. Notice must be served on the Respondent, and the temporary order is effective until the time of the hearing. At the hearing, the Petitioner can then ask for a Protection Order that lasts for a year. If there is no immediate danger, the Petitioner waits approximately two weeks for a hearing, and then asks for an Order at that time. Explain that the Petitioner must be able to prove the information in the Petition to obtain an order. The Respondent may be present to respond at the hearing. If he or she does not appear, the Order may still be issued, as long as he or she was properly served. [The local law enforcement agency will usually help with service, by giving the Respondent a copy of the Petition, with the date of the hearing, at his or her place of residence or work.]

■ What exactly does the Order for Protection do? Review the law, pointing out that it can restrain the respondent from committing acts of domestic violence; keep the respondent away from the Petitioner's home; prohibit harassment; award temporary custody of minor children; and order the respondent to participate in counseling.

■ How does the petitioner enforce the Order? Tell them to call 911 immediately; h/she should also carry a copy with her at all times; give copies to the children's school and other caregivers; and keep a record of any violations.

■ After debriefing the role-play, explain to students about any other procedures and resources in your area for victims of domestic violence. A list follows of some resources statewide, but it would be helpful to localize.

> **Your State**
> What resources exist in your state for victims of domestic violence? How does your state's law compare with the law described above?

Getting Help for Domestic Violence Through the Legal System

Washington state law has special protections for victims of domestic violence. The laws protect individuals who are being abused whether the abuser is a spouse, former spouse, someone you live with or used to live with, someone you are related to by blood or marriage, someone with whom you have a child, or if you are 16 years old or over, someone with whom you have or had a dating relationship. *"Abuse"* means that the person is threatening to hit you, hitting you, or restraining your freedom of movement. Most victims of abuse are women. There are also cases of women abusing men, women abusing other women and men abusing other men.

A person who is being abused can seek help either through the criminal legal system or the *civil* legal system.

The Criminal Legal System

If an attack is taking place, the best thing to do is to call the police.
The police should take a report. They should also inform you in writing of your rights as a domestic violence victim, and make sure you are not in continuing danger. The police should give you information about shelters and other community resources to help you.

The police must also inform you that there is a statewide 24 hour toll-free hotline with information about shelter and alternatives to domestic violence. That number is **1-800-562-6025**.

The abuser can go to jail.
The police must *arrest* the abuser *if* there is reason to believe that the abuser assaulted you within the last four hours, and that you were injured by the assault. Even if the abuser is arrested, s/he may be out of jail within a few hours. Since that is the case, the judge can issue a *"no-contact" order* if there is a danger of further harm to the injured party. *The no-contact order commands the abuser not to contact the victim by phone or in person until the trial date.* If the abuser violates the no-contact order by harassing or harming the victim, s/he can be arrested.
If the abuser violates the no-contact order, you should call 911, and show the police a copy of the order.

Civil Legal System

The civil legal system can offer help to victims of domestic violence by issuing an *Order for Protection*. You can get an Order for Protection without a lawyer. There are two types of orders—emergency temporary orders, which last for up to two weeks, and full protection orders, which last for up to one year, and can be renewed. The filing fee is $20, but the fee can be waived (set aside) for low-income people. *An Order for Protection can command the abuser not to threaten, harass, or molest the victim and can exclude the abuser from the home for up to one year.* The Order can also award temporary custody of children and order that the abuser get counseling. An Order may be issued by any court, but only the superior court can award custody of children or order the abuser to move out of the house.

If the victim is married to or has children with the abuser and is bringing an action for dissolution, legal separation, or child custody, a temporary restraining order (TRO) can be issued as part of that case. The temporary restraining order provides the same protection as an Order for Protection, except that there can be no order for counseling. A temporary restraining order, can, however, award temporary child support and temporary use of property such as a car.

If the abuser violates an Order for Protection or a temporary restraining order, the police must arrest the abuser. Of course, these orders will only be enforced if the victim calls the police to report any harassment or abuse. Again, actual enforcement of these orders can be difficult.

If the abuser violates a court order, call 911 immediately. Show the police officer a copy of the Order.

Domestic Violence Resource List

Domestic Violence Hotline
Statewide 1-800-562-6025
(Information about shelters and what to do if you are a victim)

Washington State Coalition Against Domestic Violence
200 "W" Street SE, Suite B
Tumwater, WA 98501
206-352-4029

Asian Pacific Island Family Safety Center
(Information phone line and support group for Asian Pacific Island women)

Northwest Immigrant Rigths Project
(Assists with legal mattters)

Refugee Women's Alliance
(Has advocate for battered women)

Parents and Children

Description of the Unit

In this unt, students discuss their views about child abuse, and compare how children are disciplined in their native country and in the U.S.They read a story about a mother who disciplines her child, anddiscuss whether her actions are appropriate or not. The unit ends vith a review of Washington's child abuse law.

Parents and Children

Lesson 1: Introduction

Objectives

- Students will express and discuss their views about disciplining children.
- Students will compare how children are disciplined in the U.S. and their native country.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — What Do You Think?

Vocabulary

- **Child abuse** — causing physical or emotional harm to a child.

> **Your State**
> What are the laws regarding child abuse and neglect in your state? What agency is responsible for enforcing the law?

Procedures

■ Start the class by asking students to read the story "What Do You Think?" (Depending on the level of your students, you may first read the story aloud, then ask students to read individual sentences.) Ask the following questions after students have read the story. If the class is large, divide the students into groups of three to five students to discuss the five questions.

1. Who is Minh? How would you describe her life in the U.S.? How many children does she have? Who does she have to help her with the children? Review any new vocabulary words from the story.
2. What happened in the story? What do you think about how Minh punished Thui at the store?
3. Do you know about anyone being in the same or a similar situation? What do you do when your children do not follow rules?
4. What do parents do when children break rules in your native country? Why do you think parents discipline children?
5. How do parents discipline children in the U.S.? What do you know about laws regarding disciplining children in the U.S.?

Tell students that in the U.S. that while it is not considered appropriate to hit a small child in the face, this is not technically child abuse. Hitting a child with a closed fist, however, is considered "child abuse." Also, using any type of physical discipline on an infant is considered child abuse. Ask students if they think it is ever appropriate to strike a child in anger. Explain that it is better to administer any physical discipline at a time when the parent is not angry or upset.

■ Introduce the words and phrases "child abuse" and "neglect." Discuss the definition in the vocabulary section. Explain that whether an act is child abuse or not will often depend on the facts of each situation. There are, however, specific acts

that the law defines as abuse, and those are discussed below.

■ Ask students whether child abuse or neglect is considered a problem in their native country.

If it has not already come up in the students' discussion, explain that in some countries children are considered the property of their parents. In these countries, discipline is entirely up to the parents, and is considered a private, family matter. The idea that an agency like Child Protective Services (CPS), part of the Washington Department of Social and Health Services, Division of Children and Family Services, has the right to interfere with private, family matters such as discipline of children, is shocking to many refugees and immigrants.

The laws in Washington (and in the United States) treat the welfare of children as a community responsibility, not just a private matter within the family.

■ After students have discussed the story, continue the discussion about laws regarding disciplining children. Ask: do children have legal rights? If so, what are they?

Again, some students may feel that children should not have legal rights, but are the "property" of their parents, who do not have rights until they reach adulthood. This is the view in many cultures. Other students may give answers that include the right to be free from violence, the right to shelter and food, the right to an education, the right to adequate health care, etc.

Tell students that the United Nations adopted a list of rights of children in 1989, called the United Nations Convention on the Rights of the Child. For this to be binding international law, it must be ratified by 20 nations. Only a few nations have ratified it so far. Rights included in the Convention are protection from physical or mental abuse, including sexual abuse; protection from narcotic substances; the right to adequate health care, food and shelter; protection from economic exploitation; and the right to express his or her opinion freely.

■ Ask: do children have responsibilities? What responsibilities do children have to their parents?

This should be a brainstorming session. The list could include obeying parents' authority, not calling 911 unless there is a real emergency, contributing to the household by helping with chores, respecting the parents, and supporting older parents.

■ Writing Assignment: Ask students to write about how they think children should be disciplined.

What Do You Think?

Minh is new to the U.S. She moved to Washington State from her native country one year ago. She has four children, ages 2, 4, 5, and 7. Minh's husband has a job and works from 6 a.m. until 7 p.m. every day except Sunday. When he gets home, he is too tired to help her with the children.

Minh is home alone with the children all day. She does not know her neighbors. She has few friends. They live in a small apartment with only two rooms. Minh often becomes tired and frustrated. It is difficult to take care of the four children in a strange and new place with no family members to help her.

One day, Minh takes the children with her to the store. The five-year-old, Thui, does not behave in the store. He constantly reaches out and takes cans from the shelves and drops them on the floor. Minh asks him to stop, but he does not. She slaps Thui on the face. Thui cries all the way home.

Read and discuss the following questions:

1. Who is Minh? How would you describe her life in the U.S.? How many children does she have? Who does she have to help her with the children? Review any new vocabulary words from the story.

2. What happened in the story? What do you think about how Minh punished Thui at the store?

3. Do you know about anyone being in the same or a similar situation? What do you do when your children do not follow rules?

4. What do parents do when children break rules in your native country? Why do you think parents discipline children?

5. What do you know about how parents discipline their children in the U.S.? What do you know about laws regarding disciplining children in the U.S.?

Parents and Children

Lesson 2: Washington's Child Abuse and Neglect Laws

Objectives

- Students will read and analyze the Washington law on child abuse and neglect.
- Students will apply the law to different hypothetical situations.

Estimated Time

One 50-minute class period. Either the first page of the handout, or both pages, could be assigned for homework.

Materials

Copies of handouts — Law; Is This Child Abuse or Neglect?

Vocabulary

- **Abuse** — physical discipline of a child that is not reasonable or moderate.
- **Child** — someone under the age of 18.
- **"Health, safety and welfare"** — Washington law requires that CPS protect the "health, safety and welfare" of children.
- **Lawyer** — a person who has attended three years of law school after college and passed a bar exam. Lawyers perform many functions, including writing contracts, negotiating business deals, and representing clients in court.
- **Neglect** — not providing a child with the basic necessities of life, such as food, shelter, and clothing. If the parent has made a reasonable effort to obtain these things, it may not be considered neglect.

Procedures

■ Ask students, what happens when things go wrong between parents and children? Reintroduce the topic of child abuse and neglect by writing "child abuse and neglect" on the board, and asking students to name any words they associate with "child abuse and neglect." Write significant words on the board as they are mentioned.

> **Note:** Many parents new to the U.S. are surprised to find that they may not discipline their children in ways they are used to in their native country. The state's child abuse law is designed to protect the health, welfare and safety of children. "Child" is defined in the law as a person under the age of 18.

■ Explain to students that in Washington (and in every state) there is a specific law against child abuse or neglect. It is summarized at the top of the handout (and below). Read the law aloud to the students, or have them read.

Child abuse or neglect is any treatment of a child that puts the child's health, welfare, and safety in danger.

There are four types of abuse or neglect:

1. Physical abuse: injuries to a child that are not accidental. Examples would be broken bones, bruises that are more than temporary, cuts, a black eye, or burns. Physical abuse may also include cruel or inhumane actions that cause physical or mental pain.

JUDGE'S LESSON

2. Emotional abuse: making a child feel they are not loved or wanted, or that they are worthless.
3. Physical neglect: not providing the child with a safe home, enough to eat, clothes, or medical care. If the parent cannot afford to provide these things, it may not be neglect if the parent made a reasonable effort to get assistance. Neglect also includes the failure to provide adequate supervision.
4. Sexual abuse: using a child for sex acts, pornographic pictures, prostitution, or any other type of sexual activity.

Certain acts are considered under the law to be unreasonable when used to restrain or punish a child. (This list is meant to illustrate types of physical abuse and is not an exclusive list.) These are:

1. Throwing, kicking, burning, or cutting a child.
2. Striking a child with a closed fist.
3. Shaking a child under the age of three.
4. Interfering with a child's breathing.
5. Threatening a child with a deadly weapon.
6. Doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks.

The age, size and condition of the child and the location of the injury is also considered when determining whether the bodily harm is reasonable or moderate.

> **Note to the judge:** *It is important that students understand that physical discipline of children is not always illegal,* as long as it is "reasonable or moderate." Parents *may,* for example, use an open hand to hit their child on the buttocks, as long as it does not leave lasting bruises or marks.

In working with the hypothetical examples in the handout, you will need to help students understand that many cases do not have a clear "yes" or "no" answer. The definition of abuse or neglect is pretty vague, and it is often a matter of argument whether or not a child's health, welfare or safety is endangered. Lawyers make arguments either for a finding of abuse or not, and it is the judge's job to decide whether the parent's conduct should be considered abuse or neglect.

Students may ask how the state finds out about cases of child abuse. Certain people are required by law to report to CPS if they have reasonable cause to believe that a child has been abused or neglected. Those required to report are doctors, nurses, school teachers, social service counselors, psychologists, druggists, day care providers, juvenile probation officers, and employees of the Department of Social and Health Services. The person who reports can ask that their name be kept confidential. CPS can keep confidentiality through the investigation phase, but if the case goes to court, the reporting person's name can be revealed.

■ Tell students they will now be acting as lawyers to apply the law to some hypothetical situations. Tell students that lawyers are known for their ability to make arguments to support one or the other side of an issue. They will now have the opportunity to make arguments for why the actions in the handout should or should not be considered child abuse.

First, ask students to read and think about the hypothetical examples in the handout individually. Explain that they are to respond whether or not the situation described *is* or *is not* child abuse or neglect, based on Washington's law. Then ask them to work with a partner and compare their answers, and come up with a joint response, if possible.

Some of the hypothetical situations could also be used as role-plays and then discussed by the class as a whole.

Information for the judge about the hypotheticals:

1. Tom, who is 15, came home four hours late from a basketball game at his school. His father hit him in the face with his fist, giving Tom a black eye.

   This would be abuse under Washington's law, which prohibits striking a child with a closed fist. (Number 2, under the examples of physical abuse.)

2. Vannary is 8 years old. Her mother leaves her to take care of her three younger sisters, who are 5, 4, and 2 years old, while she goes shopping. The mother is gone for two hours.

   This would probably be considered neglect, since an 8-year-old child is usually not mature enough to handle the responsibility of three younger siblings. You might ask students, "Would it make a difference if there were supervision from the next door neighbor?" (Probably not, unless the next door neighbor lives very close, and has agreed to check in often.)

   This example is a good one to use to illustrate how the customs in students' native country may be very different. In discussing this, ask students whether the dangers in their native country are the same or different from where they presently live. For example, the dangers to children in a city in the U.S. may be very different from those they might have faced in a rural area, without cars and other urban hazards.

3. Two parents work full time. During the summer, they give their 12 year old daughter full responsibility to take care of the household, including two younger children, while they go to work.

   This might be considered neglect, since a child this young may not be mature enough to be responsible for an entire household and younger children. However, it will depend on the child's level of maturity, and details of the home situation. This should be a good opportunity for discussion and comparison with the custom in other countries.

4. Dawit's parents will not allow him to go on any school field trips.

   While, this may not be considered reasonable behavior by some people, this would not be considered child abuse or neglect. You may want to discuss why Dawit's parents do not want him to go on field trips, and ways they could be reassured.

5. Jane is 6 years old. Her parents tie her to the bed while they go out shopping so that she will not run away.

   This might be considered child abuse, as treatment that might endanger the child's health or safety. For example, what if there were a fire in the house while the parents were gone? Ask students what other information they might want to know. (Do the parents intend to hurt the child?) Intent to harm is not required for a finding of child abuse.

6. Tim, age 9, disobeyed his father. He is asked to kneel on uncooked rice for an hour.

   This could go either way but is probably not child abuse. Ask students for arguments for both sides. Does it cause bodily harm greater than transient pain? Would this treatment endanger the child's health, safety or welfare? It could be considered emotionally harmful, or cruel or inhumane treatment.

7. Maria is 16. Her father regularly gets into bed with her and has sexual intercourse.

   This would definitely be sexual abuse.

JUDGE'S LESSON

8. Carla is 13. Her stepfather touches her breasts through her clothing and makes her touch his genitals.

   This would definitely be sexual abuse. Sexual touching, even through clothing, is considered abuse.

9. Jorge, age 7, lives with his father, who is usually drunk or on drugs. There is rarely enough food to eat. Jorge is sick often and does not have clean clothes for school.

   This would be neglect.

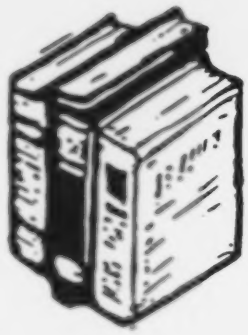
10. A mother uses her hand to spank her 10-year-old daughter until she cries.

    This would probably not be considered child abuse, unless the spanking goes on long enough to leave more than temporary marks.

■ Ask students to write about what they learned after reviewing the hypotheticals, and applying the law. For example, students could be asked to complete the following sentences:

- After studying the child abuse law, I learned ....
- I was surprised that ....

Washington's Law



Child abuse or neglect is any treatment of a child that puts the child's health, welfare, or safety in danger.

Physical abuse: injuries to a child that are not accidental. Examples would be broken bones, bruises that are more than temporary, cuts, a black eye, or burns. Physical abuse also may include cruel or inhumane actions that cause physical or mental pain.

Emotional abuse: making a child feel they are not loved or wanted, or that they are worthless.

Physical neglect: not providing the child with a safe home, enough to eat, clothes, or medical care. If the parent cannot afford to provide these things, it may not be neglect if the parent made a reasonable effort to get assistance. Neglect also includes the failure to provide adequate supervision.

Sexual abuse: using a child for sex acts, pornographic pictures, prostitution or any other type of sexual activity.

Certain acts are considered under the law to be unreasonable when used to restrain or punish a child. (This list is meant to illustrate types of physical abuse, and is not an exclusive list.) These are:

1. Throwing, kicking, burning, or cutting a child.
2. Striking a child with a closed fist.
3. Shaking a child under the age of three.
4. Interfering with a child's breathing.
5. Threatening a child with a deadly weapon.
6. Doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks.

The age, size and condition of the child and the location of the injury is important when deciding whether an action by a parent is child abuse.

Physical discipline of children is not illegal, as long as it is "reasonable or moderate." Parents *may*, for example, use an open hand to hit their child on the buttocks, as long as it does not leave lasting bruises or marks.

Is This Child Abuse or Neglect?

Read each paragraph and decide whether you think there is child neglect or child abuse under the Washington law. Check "Yes" if you think there is neglect or abuse, or "No" if you think there is no child abuse or neglect.

1. Tom, who is 15, came home four hours late from a basketball game at his school. His father hit him in the face with his fist, giving Tom a black eye.
   ☐ Yes ☐ No

2. Vannary is 8 years old. Her mother leaves her to take care of her three younger sisters, who are 5, 4, and 2 years old, while she goes shopping. The mother is gone for two hours. ☐ Yes ☐ No

3. Two parents work full time. During the summer, they give their 12-year-old daughter full responsibility to take care of the household, including two younger children, while they go to work. ☐ Yes ☐ No

4. Dawit's parents will not allow him to go on any school field trips.
   ☐ Yes ☐ No

5. Jane is 6 years old. Her parents tie her to the bed while they go out shopping so that she will not run away. ☐ Yes ☐ No

6. Tim, age 9, disobeyed his father. He is asked to kneel on uncooked rice for an hour. ☐ Yes ☐ No

7. Maria is 16. Her father regularly gets into bed with her and has sexual intercourse. ☐ Yes ☐ No

8. Carla is 13. Her stepfather touches her breasts through her clothing and makes her touch his genitals. ☐ Yes ☐ No

9. Jorge, age 7, lives with his father, who is usually drunk or on drugs. There is rarely enough food to eat. Jorge is sick often and does not have clean clothes for school. ☐ Yes ☐ No

10. A mother uses her hand to spank her 10-year-old daughter until she cries.
    ☐ Yes ☐ No

Child Protective Services

Description of the Unit

This unit discusses the role of Child Protective Services in enforcing the child abuse laws. Students read a story and role-play an interview between a caseworker and a family about an alleged incident of child abuse.

Child Protective Services

Lesson 1: How Does the State Handle Reports of Child Abuse?

Objectives

- Students will learn about the role of Child Protective Services (CPS) in enforcing the law about child abuse and neglect.
- Students will prepare to role-play an interview between a CPS worker and a child and her parents.
- Students will learn about the legal rights of parents in situations involving allegations of child abuse or neglect.

Estimated Time

One 50-minute class period. The handout reading can be assigned as homework to save class time.

Materials

Copies of handouts — Case Study, Role-Play Instructions for CPS Worker, Role-Play Instructions for Sara, Role-Play Instructions for Victor and Maria.

Procedures

■ Ask students to read the handout, "Case Study." Discuss the questions following the case study.

> **Your State**
> What agency in your state handles investigations of child abuse and neglect?

Response to questions 1-5: Answers found in the story.

Response to question 6: "What do you know about Child Protective Services? What do you think will happen next?"

Explain to students that CPS is an agency of the State of Washington. It is part of the Department of Social and Health Services, Division of Children and Family Services. The goal of CPS is to "protect children from child abuse or neglect, while preserving the family's integrity and cultural and ethnic identity." CPS is required by law to investigate reports of child abuse or neglect.

CPS does recognize cultural differences in its policies, and directs its social workers to "recognize and acknowledge" ethnic group differences in child abuse and neglect assessment. For example, the policy states that social workers must use "the child's or family's cultural group to determine whether the parental behavior is an accepted child rearing method." Workers should also consult with recognized cultural experts to find out the acceptable community standard.

Child Protective Services' policy also directs the agency to develop and implement "culturally responsive" case plans, including arranging for culturally appropriate counseling services, services to prevent the need for placing a child outside of the home, and providing services in the parent's native language.

CPS investigates reports of abuse or neglect. The investigation includes an interview with the child and the parents, and sometimes with other people as well.

CPS may ask the police to remove the child from the home immediately if there are reasonable grounds to believe that the child's health, safety or

welfare is seriously endangered. This actually happens in very few cases. If the child is removed, a hearing must follow within 72 hours.

In a case like this, since Sara is 16, and there does not seem to be a likelihood that her safety is endangered, CPS would probably investigate, and then might refer the family for counseling services.

■ Tell students they will prepare to do a role-play about the meeting between the Child Protective Services (CPS) worker and Sara's parents.

> **Note:** the CPS worker's instruction sheet is almost entirely scripted to assist those playing this role, which will be more difficult. Encourage students to add questions they feel are appropriate.

■ Prepare students for the role-play by dividing the class into four groups. Tell one group that they will prepare to play the role of the CPS worker(s) and the other three groups will prepare to play the roles of Victor (the father), Maria (the mother), and Sara (the daughter).

If your class is large, within each group, divide students into groups of three to five students, who will work together to prepare for the role-play. Pass out the CPS instruction sheets to each group that will prepare the CPS role. Help those students prepare for this role.

Divide the other groups into those who will prepare the roles of Victor, Maria, and Sara, and give those groups the corresponding instruction sheets.

■ Give students about 25 minutes to prepare for the role-play (or the rest of the class, if it is needed). Encourage students to work together to learn their roles and plan responses to the questions that the CPS worker will ask. Tell them to pretend the interview is happening the day after the beating, at Sara's home. The parties will be interviewed separately, so that Sara's parents cannot hear her interview and vice versa. (The mother and father would also probably be interviewed individually, but we won't do that for this exercise.)

Case Study

Victor and Maria have three children. The oldest, Sara, is 16. The family came to the U.S. from their native country four years ago. Sara learned English very quickly. She has done well in school.

Victor and Maria feel very strongly that Sara should not go out with boys. They forbid her to attend basketball and football games. They believe that she should be at home with the family. She should study so that she can attend college.

Sara wants to go out with her friends. She particularly likes a boy named Jerome. One evening, Sara tells her parents that she is studying at the library. Instead, she goes with Jerome to a basketball game. Then they go to a local restaurant.

A friend of her family sees Sara at the restaurant with Jerome. The friend tells her parents. When she gets home, Victor is very angry. He hits Sara on her back and legs with a belt. The belt leaves bruises and dark red marks on her back and legs.

Sara goes to school the next day and tells her teacher about the beating. The teacher reports the incident to Child Protective Services.

1. What did Sara want to do? What do you think about the rules her parents have?

2. How did her parents feel when Sara went out without their permission? How did Sara feel? Why did she go out with Jerome?

3. Are you aware of any situations like this?

4. Are teenagers allowed to go out with members of the opposite sex in your native country? Under what circumstances? Should parents follow or adapt to what the rules or customs are in the U.S.?

5. What do you think about how Victor, Sara's father, acted? How else might he have handled the problem?

6. What do you know about Child Protective Services? What do you think will happen next?

Child Protective Services (CPS) Worker Role-Play Instructions/Questions

You will be playing the role of the Child Protective Services worker. It is your job to find out what happened between Sara and her parents. You need to know whether Sara was abused by her parents.

You should ask questions of Sara, Victor, and Maria. Work with other students to prepare questions for each of them. Ideas for questions follow.

You are the person from the state of Washington responsible for the health, safety and welfare of Sara.

Questions for Sara:

1. First, introduce yourself. Explain that you are someone who makes sure that kids are safe. Ask her if there is anything she would like to tell you about. (If she does not offer information about the beating, say "I understand you have some bruises. Tell me what happened.") Ask her to give you all the details, starting with the day she went to the basketball game.

   (Sara's response.) Encourage her to tell you everything by asking more questions. Some other questions to ask:

2. Are there any other physical marks to show the beating? May I see them? I'd like to take pictures.

3. Has this ever happened before? If so, how often?

4. Do either of your parents ever hit your brothers or sisters?

5. Are you concerned about your safety if you stay at home? What about the safety of your brothers and sisters?

Questions for Victor and Maria:

1. Do you understand English? If not, we can arrange for an interpreter. Tell me what happened, starting with the day of the basketball game.
2. Explain why you were angry at Sara. What happened next?
3. Did you try to talk with her about what happened?
4. Did you consider any other ways to punish her besides hitting her?
5. How do you punish your other children?
6. Our law allows parents to use physical force to punish their children, as long as it is reasonable. The method of punishment should not leave lasting marks on the child's body, such as bruises.
7. Are you interested in learning other ways to discipline your children?

Sara's Story
Role-Play Instructions/Questions

Sara is 16. She is very smart. She understands American ways much better than her parents. She came to the U.S. when she was 12. Even though it was very difficult for her at first, she learned English quickly. She made friends at school.

Sara loves her parents, but feels that they do not understand the "American way." They are much too strict. They want her to conform to the ways of their native country, where women rarely go out in public alone, and girls do not date at all.

Sara does not want her parents to get into trouble, but she is very angry at her father for hitting her. She would like to stay living at home with her parents, but would like for her parents to give her more freedom. She also does not want her father or mother to hit her ever again.

The day of the basketball game, she wanted to go so much, she just decided to tell her parents a lie, and go with Jerome. When she got home, and her parents asked her about being at the restaurant, she knew she was in trouble.

Her father has hit her before with a stick, but not since she became a teenager. He still beats her younger brothers and sisters sometimes, usually with a belt.

Questions the CPS worker may ask you include:

1. What happened to you?
2. Are there any other physical marks to show the beating? May I see them? I'd like to take pictures.
3. Has this ever happened before? If so, how often?
4. Do either of your parents ever hit your brothers or sisters?
5. Are you concerned about your safety if you stay at home? What about the safety of your brothers and sisters?

Victor and Maria's Story Role-Play Instructions/Questions

Victor and Maria have been in the U.S. for four years. They do not speak English well and often rely on their children to help them deal with "the system."

They came to this country because they were persecuted for their beliefs in their native country. While they like the idea of freedom to believe what you wish in the U.S., they do not like the American way of raising children. In their native country, women do not date before marriage, and parents decide whom their children will marry. Children obey and respect their parents, and are punished if they do not.

They are very concerned that a family friend saw Sara out with a young man. They think this friend will tell other people they know about this, and that Sara will no longer be considered fit for marriage within their community.

While Victor does not regularly punish his children this severely, he feels that the punishment was appropriate in this case. Both Victor and Maria have punished the children by hitting them with either a belt or a stick. Victor is usually the parent who punishes the children.

Victor will tell the CPS worker about what happened and why he felt he should beat Sara for disobeying his wishes. He will also state that he is interested in learning new ways to discipline his children.

Maria will tell the worker that she supports her husband, but she wishes he would not hit Sara, now that she is older. Maria feels it is okay to hit younger children, but Sara is too old for physical discipline.

You will speak to the CPS worker in English.

Questions the CPS worker may ask you include:

1. Do you understand English? If not, we can arrange for an interpreter. Tell me what happened, starting with the day of the basketball game.
2. Explain why you were angry at Sara. What happened next?
3. Did you try to talk with her about what happened?
4. Did you consider any other ways to punish her besides hitting her?

5. How do you punish your other children?

6. Our law allows parents to use physical force to punish their children, as long as it is reasonable. The method of punishment should not leave lasting marks on the child's body, such as bruises.

7. Are you interested in learning other ways to discipline your children?

Child Protective Services

Lesson 2: Role-Play

Objectives

- Students will role-play an interview between a CPS worker and a child and her parents.
- Students will learn about the legal rights of parents in situations involving allegations of child abuse or neglect.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — Parents' Legal Rights.

Procedures

■ Students are prepared to conduct a role-play of a CPS worker, a child, and her parents. The enactment of the role-play can either be one role-play in front of the class or several role-plays at once. If the class observes one role-play, ask the observers to be looking for the following:

- Does the CPS worker seem to have Sara's best interests in mind.
- Has s/he found out all of the important information?

■ After the role-play, tell students that in cases where the parents are interested, CPS can assist them by finding services for them such as parenting classes, child care, health services, drug and alcohol abuse counseling, transportation services and employment services. Traditional western-style counseling services are not available for non-English speakers in many communities.

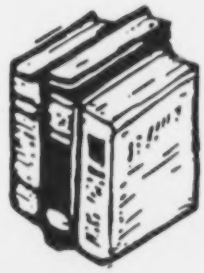
■ Ask: what would happen if Sara did not feel safe at home? What if the CPS worker felt that the other children were in danger and removed them from the home? In this case, the courts would become involved.

■ Ask students how Victor, Maria, and Sara's extended family, community, and friends might help in this situation?

■ Give students a copy of the Parents' Legal Rights handout. Ask students to read aloud individual paragraphs, and discuss each one.

You can also tell students that in Washington Stae, for example, CPS receives over 40,000 abuse and neglect referrals each year. Most of these are investigated and then closed without further action. Only about 11 percent of the referrals are actually filed as dependency actions (the court case filed to remove a child from the home is called a "dependency action") in juvenile court, and most of those are settled outside of court before trial.

Parents' Legal Rights in a Child Abuse or Neglect Case



Keep in mind that under the state law, the goal in all cases is to keep the family together, if at all possible.

1. You have the right to be represented by a lawyer. If you cannot afford to pay for a lawyer, the state will appoint one for you or direct you to one, if a court case is filed.

2. If you do not understand forms presented to you to sign, you should consult with an attorney before signing them.

3. You have the right to receive notice about, attend, and participate in all court hearings about your child.

4. If your child is removed from the home, you have the right to visit your child and to be informed about your child's health, progress in school, and behavior.

5 If your child is removed from the home, you have the right to be consulted about any plans for the care of your child.

6. You have the right to receive notice of all court hearings about your child and to participate in all those hearings, with a lawyer to represent you.

7. If your child is removed from the home, you have the right to request that the child be placed with a relative. (This does not mean that the child will always be placed with the relative.)

8. You have the right to an interpreter if you need one.

Landlord-Tenant Law — The Lease

Description of the Unit

In this unit, students review a hypothetical situation about a couple renting an apartment. They analyze problems with the apartment, and review the lease. Students work in groups to read the lease, and paraphrase it.

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Landlord-Tenant Law — The Lease

Lesson 1: Moving In

Objectives

- Students will read a story about a couple looking for an apartment.
- Students will analyze the story and identify the issues.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — Renting an Apartment.

Resources

The Washington State Attorney General has published an excellent brochure on Landlord-Tenant Law. This is available from the Attorney General's Office, 206-753-6210.

Your State

Find out what the residential landlord-tenant law is in your state.

Vocabulary

- **Security deposit** - an amount of money paid by the tenant to the landlord to cover any damages to the apartment caused by the tenant or to pay rent that is overdue.

Procedures

■ Introduce the topic of landlord-tenant law by asking students whether any of them have rented an apartment or house. Did they sign a rental agreement or lease? For those who have, ask them whether they asked to have the lease translated for them. Did they really understand what it said? (You might tell them that most native English-speakers do not understand many of the provisions in the typical lease.)

■ Ask students to read the story about a couple renting an apartment. Ask questions to check for understanding:

- Who are Tina and Ricardo?
- What do they want to do?
- What is wrong with the apartment?
- Have you been in a similar situation?
- What should they do?

■ Work with students to define the issues Tina and Ricardo must work out before renting the apartment. The issues include:

- Making sure that Tina and Ricardo are not held responsible for prior defects in the apartment.
- Getting the landlord to install a proper lock on the front door.
- Understanding the lease agreement and the security deposit.

Discuss with students how they would take care of these problems. Share the following information with students during the discussion.

- **Prior Defects**—Washington's residential landlord-tenant law (it applies to residential rentals only, as opposed to commercial rentals) has a requirement that when a security deposit is required, the landlord must complete a "checklist," documenting the condition of the rental unit at the time the tenant moves in.

  The checklist is usually filled out when the tenant and landlord walk through the apartment prior to the tenant moving in. Any defects are noted. Both landlord and tenant should sign it, and the tenant should receive a signed copy.

  Tina and Ricardo should ask for a checklist to be completed, and note the problems with the carpet, countertop and flooring. They should ask the landlord to fix these problems.

- **Door Locks**—The landlord is required by law to provide "reasonably adequate" locks. If the lock is really inadequate, they should request a new lock be installed before they move in.

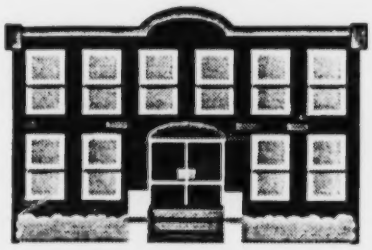
- **Rental Agreement**—Leases and rental agreements are notoriously filled with "legalese." Students who are less advanced should consult with a friend or relative for assistance in reviewing a rental agreement before signing it.

- **Deposits**—Whether a "deposit" is refundable depends on whether or not it is called a "security deposit" or a "fee." A security deposit is to protect the landlord in case the tenant damages the apartment or does not pay the rent. Security deposits must be returned within 14 days after the tenant moves out, or the landlord must write the tenant an explanation of why all of the deposit is not returned. Deposits cannot be withheld for "normal wear and tear" of the premises.

  Fees, on the other hand, are generally not refundable. For example, a carpet cleaning fee is not refundable.

■ Tell students that next class a judge will discuss leases with them. You may want to assign the lease, in the next lesson, for reading before the next class. Also, ask students to bring in copies of their own leases.

Renting an Apartment



Tina and Ricardo moved to the U.S. from their native country one year ago. They have been living with Tina's sister and her family. Tina is pregnant. Tina and Ricardo are looking for an apartment of their own to rent.

They see an advertisement in the newspaper for a one-bedroom apartment for $350 per month. They look at the apartment. The carpet is dirty, the kitchen counter is stained, and the flooring is ripped under the bathtub. Also, the front door does not have a "dead bolt" lock. Otherwise, they like the apartment, and the rent is reasonable for the area.

They would like to rent the apartment but want the landlord to fix the door lock. They also do not want to be responsible for the dirty carpet, kitchen counter, and bathroom floor.

The landlord gives them a paper to sign. It says at the top: "Residential Rental Agreement." The landlord also tells them they will need to pay first and last month's rent, a $400 security deposit, and a $100 cleaning fee.

Landlord-Tenant Law — The Lease

Lesson 2: Analyzing the Lease

Objectives

- Students will read a sample lease and paraphrase it.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — Sample Lease.

Resources

The Washington State Attorney General has published an excellent brochure on Landlord-Tenant Law. This is available from the Attorney General's Office, 206-753-6210.

Vocabulary

- **Default** — the failure to perform a legal duty, e.g. the tenant's failure to pay rent would be a default.
- **Invitee** — a person who enters the property of another with permission.
- **Lease** — rental agreement between a landlord and tenant. The term "lease" usually refers to an agreement between the landlord and tenant to lease a space for a certain period of time, such as a year. During that time the rent cannot be raised, and rules cannot be changed without agreement.
- **"Month-to-month" rental agreement** — agreement to rent an apartment or house for an indefinite period of time. The month-to-month agreement continues until either the tenant or landlord gives proper notice to end it. Rent can be raised or rules changed with proper notice.
- **Normal wear and tear** — minimal deterioration to the condition of a rented apartment or house, considered to be the result of reasonable and ordinary use.
- **Prorated** — to divide proportionately. For example, if rent is $600 per month and the tenant leaves on the 15th of the month, prorated rent would be one half of the monthly rent, or $300.
- **Tenancy** — the period of the tenant's occupation of an apartment or house.

Procedures

■ Ask students to read and work with the sample lease in groups. This lease is a shortened version of a typical lease in Washington State, divided into sections. Cut the lease into sections and assign a paragraph to each group. Ask them to paraphrase the language as best they can. Then ask each group to explain their paragraph to the rest of the class.

■ Make sure students understand the agreement by asking:

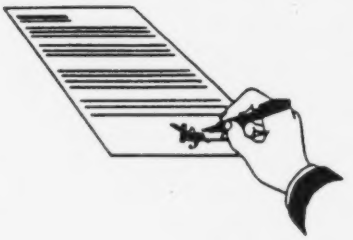
- How long is it for? *(9 months.)*
- What happens if they stay longer? *(It becomes a*

month-to-month rental. This means that technically the tenancy is renewed each month when the rent is paid. A month-to-month rental is for an indefinite period of time.)

- When is the rent due? *(On the first of the month. A late fee is collected if it is not paid by the 10th.)*
- Who pays the utilities? *(The tenant, except landlord pays the water bill.)*
- When can the landlord come in? *(To make repairs, show the unit, or in case of an emergency.)*
- How much is the security deposit? *($400.00. Explain that a security deposit is paid by the tenant to protect the landlord in case the apartment or house is damaged or the tenant leaves without paying the rent.)*
- Is there a nonrefundable fee? *(Yes, $100 cleaning fee. This fee the landlord keeps, and uses to clean the apartment after they leave.)*
- How much money do the tenants have to pay to move in to the apartment? *($1200 — $350 first month's rent, $350 last month's rent, $400 security deposit, $100 nonrefundable cleaning fee.)*

■ Ask students if they have copies of leases they have signed, and compare them with this one.

Residential Rental Agreement



Parties: The parties to this rental agreement are

Landlord: _____

Tenant: Tina and Ricardo Mendoza

Property: The landlord leases the following property to the tenant: (Description)

Term: This rental agreement is for a term of 9 months, beginning on _____, 199__ and ending on _____, 199__.

The tenancy shall be deemed terminated at the end of the specified period. If the tenant stays beyond that period, it will result in a month-to-month tenancy. Then, either party may terminate the tenancy upon 20 days written notice to the other party.

Rent: The monthly rental shall be $350.00 per month, due and payable in full on the 1st day of the month, commencing on _____, 199__. The rental for any partial month shall be prorated.

There will be a late charge of $10.00 for any rent payment received after the 10th day of the month.

Utilities: In addition to the rent, the tenant shall pay all utilities charged against the apartment with the exception of water, which will be furnished by Landlord.

Tenant's Obligations: Tenant shall:

(1) Keep the premises in a clean and sanitary condition;

(2) Properly dispose of rubbish, garbage and waste in a clean and sanitary manner at reasonable and regular intervals;

(3) Properly use and operate all electrical, gas, heating, plumbing, and other fixtures and appliances;

(4) Not intentionally or negligently destroy, deface, damage, or remove any part of the premises;

(5) Tenant will be liable for any damage to the premises caused by tenant's acts other than normal wear and tear. Tenant shall also be liable for any damage caused by a family member, invitee, or any person acting under tenant's control.

Landlord's Obligations: Landlord shall:

(1) Maintain all structural components in good repair;

(2) Keep common areas reasonably clean and safe from defects;

(3) Except in the case of a single family residence, control infestation of insects except where caused by tenant, and provide for trash receptacles;

(4) Maintain all electrical, plumbing, heating and other appliances supplied by the landlord in reasonably good working order.

Access: Landlord reserves the right of access to the premises for the purpose of inspection, repairs, or to show the premises to prospective or actual purchasers or tenants. Landlord shall give tenant at least 48 hours advance notice before entering to make repairs or inspect; 24 hours for the purpose of showing the premises to prospective purchasers or tenants. Landlord shall need give no advance notice before entering in case of an emergency. Tenant shall not unreasonably withhold consent to landlord's entry at reasonable times.

Notice: Either party may terminate this Rental Agreement by giving the other party written notice at least 20 days before the end of the rental term.

Security and Other Deposits: The tenant has deposited the amount of $750.00.

This is for:	Last month's prepaid rent	350.00
	Security deposit	400.00

Landlord may apply the prepaid rent towards any default in payment of rent. The security deposit may be applied to secure the terms of this Rental Agreement, including, but not limited to unpaid rent and utilities, and to repair any physical damage to the premises caused by tenant beyond normal wear and tear.

Within 14 days after tenant vacates, landlord shall either return the security deposit or else give tenant a full and specific written statement of the basis for retaining any portion of the deposit.

Nonrefundable Fees: Tenant has paid $100.00 as a fee for cleaning. This is in addition to the security deposit.

Signatures: The undersigned parties acknowledge that they have read this Rental Agreement and will comply with its terms.

_____ _____

Attached: Description of Condition of Premises (Checklist)

Landlord-Tenant Law — Going to Court

Description of the Unit

In this unit, students read about Tina and Ricardo from the previous unit, as they prepare to leave their apartment. Students discuss what options are available when having a dispute with a landlord, and consequences of different options. The unit ends with a scripted mock trial in Small Claims Court.

Landlord-Tenant Law — Going to Court

Lesson 1: Moving Out

Objectives

- Students will read a story and discuss the issues raised.
- Students will complete a Small Claims Court complaint form.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of handouts: Moving Out; Small Claims forms; scripted trial for participants in the trial.

Your State

Does your state or community have a Small Claims Court? If so, what cases are heard there, and what is the filing fee? Is there a community dispute resolution service in your area?

Vocabulary

- **Complaint** — the document filed with the clerk of court to start a lawsuit.
- **Defendant** — the person who is being sued, who is asked to pay money.
- **Plaintiff** — the person bringing the lawsuit, who is asking for money.

Procedures

■ Ask students to read "Moving Out," a follow-up on the story about Tina and Ricardo.

■ Check for understanding by asking questions such as:

- What is the problem here?
- What are Tina and Ricardo feeling?
- How would you feel in this situation?
- Has anything like this happened to you or someone you know?
- What can they do?
- What solutions can you think of?

■ Tell students the first thing would be to call the landlord and talk to him or her. Ask what they would want to ask the landlord. (You might have students do a role-play here of the phone call to the landlord. If so, tell the student playing the landlord to be very uncooperative.)

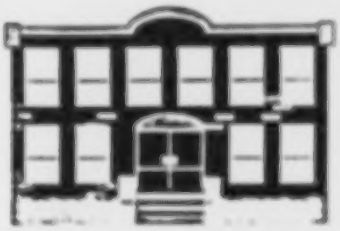
■ If the landlord is not willing to discuss the matter, another option would be to seek the assistance of a community dispute resolution center. Sometimes a neutral third party can help to resolve disputes of this type. (The judge coming to the next class should be able to tell students about whether there is a dispute resolution center in your area.)

■ If the landlord is not willing to negotiate, Tina and Ricardo could bring a civil lawsuit in Small Claims Court.

■ Pass out a sample copy of the Complaint form from the Small Claims Court. Ask students, working in groups, to complete the complaint form for Tina and Ricardo. Tell them that next time, a judge will come to class to discuss Small Claims Court, and assist them to enact a mock trial.

■ To prepare for the mock trial, you may want to ask for volunteers to play the roles of Tina, Ricardo, and Daryl, so they can prepare ahead of time. Give those students a copy of the mock trial. Depending on the level of your class, you might also practice the trial in class before the judge comes.

Moving Out



Tina and Ricardo rented the apartment discussed in the last unit. They signed the Residential Rental Agreement. Their landlord completed a checklist with them before they moved in. The checklist listed the condition of the carpet, counters, and flooring.

Now, nine months later, Tina and Ricardo have moved out. They asked the landlord to walk through the apartment with them before they left. The landlord wrote down that the walls are dirty, the carpet is dirty, there are two holes in the wall, and there is mildew in the bathroom.

Fourteen days later, Tina and Ricardo receive a letter from their landlord. The letter says that the landlord is keeping $300 of the security deposit to pay for removing the mildew, repairing the holes in the wall, and repainting the apartment.

They feel this is not fair. They cleaned the apartment before leaving. They feel they left it as clean as they found it.

What should they do?

SEATTLE, WASHINGTON 98104
PHONE: 296-3550

Plaintiff Name

Address

City Zip

Phone (Home) (Work)

SMALL CLAIM NO. _____

NOTICE OF SMALL CLAIM

VS.

Defendant Name

Address

City Zip

Phone (Home) (Work)

YOU, THE ABOVE NAMED DEFENDANT, ARE HEREBY DIRECTED TO APPEAR PERSONALLY IN ROOM E- _____ OF KING COUNTY DISTRICT COURT, SEATTLE DIVISION, 516 THIRD AVENUE ON _____ TIME _____ READY FOR TRIAL, AND TO HAVE WITH YOU, THEN AND THERE, ALL BOOKS, PAPERS, AND WITNESSES NEEDED BY YOU TO ESTABLISH YOUR DEFENSE TO THE CLAIM.

YOU ARE FURTHER NOTIFIED THAT, IN CASE YOU DO NOT SO APPEAR, JUDGMENT WILL BE RENDERED AGAINST YOU FOR THE AMOUNT OF THE CLAIM AS STATED HEREIN BELOW, AND IN ADDITION, COSTS OF FILING AND COSTS OF SERVICE OF THIS NOTICE. FOR FURTHER INSTRUCTIONS PLEASE REFER TO THE REVERSE SIDE OF THIS FORM.

ISSUED: _____ _____
JUDGE / CLERK

CLAIM

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

_____, Plaintiff above named, deposes and says:

Defendant named above owes to the plaintiff the sum of $_____, which became due or owing on _____ (date).

The amount owing is for: Auto Damages ☐ Date of Accident: _____

Wages ☐ Rent ☐ Loan ☐ Goods Sold ☐ Property Damage ☐ Other _____

I certify under penalty of perjury under the Laws of the State of Washington that the statements in this form are true and correct.

_____ _____
DATED PLAINTIFF

_____
COURT CLERK

KCDCF # 1991

COURT-1, FILE-2, DEFENDANT-3, PLAINTIFF-4

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SEATTLE, WASHINGTON 98104
PHONE: 296-3550

Sample

Ricardo + Tina Mendosa
Plaintiff Name
102 Third Ave.
Address
Seattle WA 98101
City Zip
206 - 222 - 1101
Phone (Home) (Work)

SMALL CLAIM NO. _____

NOTICE OF SMALL CLAIM

VS.

Daryl Trump
Defendant Name
Trump Tower, Suite 200
Address
Seattle WA 98011
City Zip

Phone (Home) (Work)

YOU, THE ABOVE NAMED DEFENDANT, ARE HEREBY DIRECTED TO APPEAR PERSONALLY IN ROOM E- 320 OF KING COUNTY DISTRICT COURT, SEATTLE DIVISION, 516 THIRD AVENUE ON _____ TIME _____ READY FOR TRIAL, AND TO HAVE WITH YOU, THEN AND THERE, ALL BOOKS, PAPERS, AND WITNESSES NEEDED BY YOU TO ESTABLISH YOUR DEFENSE TO THE CLAIM.

YOU ARE FURTHER NOTIFIED THAT, IN CASE YOU DO NOT SO APPEAR, JUDGMENT WILL BE RENDERED AGAINST YOU FOR THE AMOUNT OF THE CLAIM AS STATED HEREIN BELOW, AND IN ADDITION, COSTS OF FILING AND COSTS OF SERVICE OF THIS NOTICE. FOR FURTHER INSTRUCTIONS PLEASE REFER TO THE REVERSE SIDE OF THIS FORM.

ISSUED: _____ _____
JUDGE / CLERK

CLAIM

STATE OF WASHINGTON)
) SS
COUNTY OF KING)

Ricardo Mendosa, Plaintiff above named, deposes and says:

Defendant named above owes to the plaintiff the sum of $ 300.00, which became due or owing on _____ (date).

The amount owing is for: Auto Damages ☐ Date of Accident: _____

Wages ☐ Rent ☐ Loan ☐ Goods Sold ☐ Property Damage ☐ Other Security deposit refund

I certify under penalty of perjury under the Laws of the State of Washington that the statements in this form are true and correct.

_____ Ricardo Mendosa
DATED PLAINTIFF

_____
COURT CLERK

KCDCF # 1991

COURT-1, FILE-2, DEFENDANT-3, PLAINTIFF-4

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Landlord-Tenant Law — Going to Court

Lesson 2: Mock Trial

Objectives

- Students will enact a scripted mock trial in Small Claims Court.
- Students will interact with a judge, and discuss landlord-tenant law.
- The judge will learn about the students' concerns regarding landlord-tenant law.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — Scripted Trial.

Vocabulary

- **Alternative dispute resolution** — a way to settle a dispute outside of court. Includes negotiation, mediation, and arbitration.
- **Judgment** — decision by a court on the rights or claims by a party in a case.
- **Mediation** — an alternative to the judicial process in which a neutral person assists the people to find a solution to their dispute that everyone is comfortable with. The mediator does not make decisions.

Before Class

Review the prior lessons, especially the stories about Tina and Ricardo and the rental agreement form. You may also want to review information about local alternative dispute resolution centers and Small Claims Court procedures.

Procedures

■ Begin the class by introducing yourself to the students, and telling a little bit about what you do, if this is your first class.

■ Tell students they will enact a mock trial. Tell students the case is in Small Claims Court. (You will tell them more about this court after the trial.) Tell those students who are not actors that you want them to assist you in making your decision, as jurors. (You can explain that in Small Claims Court the judge actually makes the decision, but you want them to help you as an advisory jury.)

■ Arrange the room to resemble a courtroom, with a witness chair, table and chair for the judge, and table or chairs for plaintiffs and defendant.

■ The teacher will have already assigned the roles. There are three roles: Tina, Ricardo, the tenants and Daryl Trump, the landlord.

■ Ask the actors to take their seats in the front of the room. Tell the rest of the class to listen carefully, as you will be asking them to assist you in making a decision. Tell them to write down evidence they think is important. Explain to

JUDGE'S LESSON

everyone that:

Tina and Ricardo have brought this lawsuit. They are the "plaintiffs." Since they "started" it, they have the responsibility to prove they are entitled to recover money from Trump. They have to prove this by more than 50%. (You might illustrate this concept by drawing a scale or a continuum on the board.) The more actual "proof", such as documents, letters, or witnesses, they have, the easier time they will have proving their case.

Daryl is the defendant. He can bring up evidence to show that he is not responsible to return the money.

■ Enact the trial. Discuss the students' view of the evidence. Discuss your decision with the class. Do they agree or disagree? Would they have asked additional questions? Point out that Tina and Ricardo did not save important documents, such as their lease. Emphasize that it is important to keep all documentation.

■ Tell students more about Small Claims Court in Washington State, including that the maximum amount a plaintiff can ask for is $2500; no attorneys are allowed; the judge can only award money, and cannot order a person to do something, like complete work; that even if the plaintiff wins, he gets a judgment only, and may have to take further legal action to collect the judgment. The cost to file a case is $10.

Interpreters will usually be provided in Small Claims Court. A request should be made ahead of time. State law requires that a certified or qualified interpreter must be provided in any legal proceeding, if a party cannot speak English, unless "good cause" is found.

Your State
Does your state provide for interpreters in small claims court? If so, what is the procedure?

You might also point out that in many counties, there are alternative dispute resolution centers. The parties might be able to resolve their dispute with the assistance of a neutral third party, through conciliation or mediation. Many dispute resolution centers have offices at the Small Claims Courts, and can offer mediation as a last resort, before going before the judge.

Small Claims Court Mock Trial

JUDGE: This is the case Mendoza v. Trump. Are all of the parties in the courtroom?

TINA: Yes, the Mendozas are here.

DARYL: Trump is here, also, Your Honor.

JUDGE: Come on up here to the front, and have a seat. Who is going to testify for the plaintiff?

TINA: We would both like to, Your Honor.

JUDGE: Okay, who wants to go first?

TINA: I would like to speak first.

JUDGE: Okay. Before we go any further, would all of you stand and raise your right hand? Do you swear or affirm that the testimony you are about to give is the truth?

ALL: Yes.

JUDGE: Thank you. Now, Mrs. Mendoza, please take a seat on the witness stand. Now tell me why you are here. What is this case about?

TINA: Well, we rented an apartment from Mr. Trump. He won't give us our deposit back. We left the apartment as clean as we could, and he says that we must pay to clean the carpet. Well, the carpet was dirty when we moved in. And he says we must pay for holes in the walls. We didn't put any holes in the walls!

JUDGE: What was the amount of your deposit?

TINA: It was $400, plus first and last month's rent, and a $100 cleaning deposit, too.

JUDGE: Do you have a copy of your lease?

TINA: No, we could not find it. I know it was $400, though. We paid him $1200 when we moved in. Oh, we had to save so long to get that much money!

JUDGE: Did you walk through the apartment with your landlord before moving in?

TINA: Yes, we did. I have that paper. Here it is.

JUDGE: What about when you moved out? Did you walk through the apartment then, also?

TINA: Yes, see, it says that on the paper. He says we did all kinds of things we did not. We left the apartment very clean.

JUDGE: Did you get a letter from Mr. Trump, explaining why he did not return all of your deposit?

TINA: Yes, but we have lost that letter.

JUDGE: What did it say?

TINA: Just that we would not get our deposit back, except for $100. He kept the $100 cleaning deposit, and $100 of our security deposit.

JUDGE: Thank you, I think I understand. Is there anything else?

Tina: Well, my husband wants to explain about the holes in the wall.

JUDGE: Mr. Mendoza, you may come take a seat. Thank you, Mrs. Mendoza, you may step down.

RICARDO: I am a carpenter. I want to explain to you about these holes in the wall. They are because the doors do not have proper stops. If you open the door too fast, the doorknob hits the wall. The holes are not our fault. Also, he says there is mildew in the bathroom. That is because there is a no-good fan in there. It does not remove the air when you take a shower. This is not our fault. We left that apartment as good as when we found it.

JUDGE: Thank you, Mr. Mendoza. Is there anything else?

RICARDO: Just that we want our money back.

JUDGE: You may step down. Mr. Trump, I'd like to hear from you. Please come up and take a seat. Do you have a copy of the lease and the letter sent to the Mendozas?

DARYL: Yes, your honor, I do. Here they are. I have made extra copies for you. As you can see, a checklist was completed both when the Mendozas moved in and when they moved out. The apartment was left in poor condition. My crew spent

two days cleaning it up. The carpet was filthy, and had to be cleaned three times. It took two coats of paint to cover the mildew in the bathroom. The holes in the wall are large and cost $50 each to repair. I have itemized all expenses in the letter, as you can see.

JUDGE: Mr. Trump, I see that the Checklist says that the carpet was dirty when the tenants moved in. I also see that there was a $100 cleaning fee. Are you saying that you had to do an additional $300 worth of cleaning and repairs over and above the $100 cleaning fee?

DARYL: Yes, your honor, the place was filthy.

JUDGE: Don't you regularly repaint apartments between tenants?

DARYL: No, only when the walls cannot be cleaned.

JUDGE: How old is that fan in the bathroom?

DARYL: Umm. It was there when I bought the building.

JUDGE: When was that?

DARYL: Seven years ago.

JUDGE: Perhaps it's time you replaced the fan. When did you last replace the carpet?

DARYL: I think it was about seven years ago, just after I bought the building.

JUDGE: Are there door stops on the doors within the apartment?

DARYL: No, your honor.

JUDGE: You may be excused. I am ready to make my ruling.

JUDGE: *(Turn to the rest of the class, and ask them what they think.)* What evidence helps Tina and Ricardo? What evidence helps Daryl?

(You might list evidence on the board, as students mention it, under Plaintiff and Defendant.)

Possible ruling: I find that the plaintiffs have met their burden of proof to show that the landlord withheld the security deposit to cover repairs and cleaning that were within "normal wear and tear" of the apartment. The carpet was dirty when the

tenants moved in, plus the landlord had collected a cleaning fee. The walls do not sound as though they were dirty beyond the usual wear and tear, and the landlord should expect to have to paint between tenants. I find that the holes in the wall are the result of the landlord's failure to install door stops, and that the mildew in the bathroom is the result of a bathroom exhaust fan that needs replacing. The defendant will pay the plaintiff $300, plus court costs.

Consumer Law—

Unfair and Deceptive Sales Practices

Description of the Unit

This unit examines consumer law, in particular unfair and deceptive sales practices. Students begin by defining the word "consumer" and discuss their experiences as consumers. An exercise follows, analyzing hypothetical situations to decide whether they are unfair or deceptive. The unit ends with a mock trial about a consumer dispute.

Consumer Law — Unfair and Deceptive Sales Practices

Lesson 1: What Is a Consumer?

Objectives

- Students will describe transactions in which they were consumers.
- Students will define "consumer."
- Students will select advertisements that may be misleading to consumers.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

None.

Vocabulary

- **Consumer** — anyone who uses or buys a product or service.
- **Deceptive sales practices** — false or misleading sales methods that are unfair to consumers. Whether or not a practice is considered "unfair" and therefore illegal under the Consumer Protection Act will usually depend on whether and how the consumer was injured.

Procedures

■ Introduce the topic of consumer law by writing the word "consumer" on the board, and asking "Has anyone been a consumer today?"

If students seem uncertain, ask them if they rode the bus to school, purchased a cup of coffee, bought a new notebook, etc. Point out that in all of these transactions they are consumers. Even as students they are consumers.

■ Ask for a definition of a consumer. "A person who buys goods or services from another person." Ask them for more examples, and list those on the board.

■ Ask, do consumers have rights? What if the cup of coffee made you sick? What if the bus had an accident? Would you have any rights?

■ Tell students that consumers do have rights. Point out that with these rights come the obligation to investigate and ask questions about what they are purchasing. The law will not come in and "rescue" consumers every time they make an unwise purchase. However, merchants may not mislead or deceive consumers about the quality or availability of merchandise.

■ Ask students to look in the newspaper or magazines for advertisements that they think may be misleading (not necessarily illegal) to consumers. Tell them to bring them in for the next class.

Consumer Law — Unfair and Deceptive Sales Practices

Lesson 2: Fair or Unfair?

Objectives

- Students will analyze situations and decide whether the seller's actions are fair or unfair.
- Students will compare their opinions with the law.
- Students will also have the opportunity to speak, write, read and understand English.

Estimated Time

One 50-minute class period.

Materials

Copies of handout — Fair or Unfair?

Procedures

■ In the last class, students were asked to bring in advertisements they thought were misleading or deceptive. Ask students to share the advertisements they found. Ask several students to read their ad aloud to the rest of the class. Discuss whether anything seems misleading about the ad. [You may save any ads you have questions about for the judge, when he or she visits class.]

■ Pass out the "Fair or Unfair" handout to the class. Divide students into groups of three to five students. Tell them to read the hypothetical situations, and decide whether the action of the merchant or seller seems "fair" or "unfair." If they cannot decide, tell them they may put "undecided." If they choose undecided, they should be able to express *why* they cannot decide. Also, explain that they are to answer whether they think the practice is fair or not, not whether they think it is *legal*. Give students 20 to 25 minutes to discuss the hypotheticals.

■ Once students have completed the hypotheticals, ask each group how they felt about the situations. In reviewing the information given below about the legality of the situations, keep in mind that students' responses are not "right" or "wrong," as they were asked to give an opinion. Some of their opinions may not be in accord with the law. If that is the case, explain that the laws are made by legislators, and they can write and express their opinions to the legislature. Information about the hypotheticals:

1. This is probably an illegal "bait and switch" sales tactic. Tell students that "bait and switch" is usually a deal "too good to be true." The seller does not really intend to sell the item, but is using it to get customers into the store. Once customers have responded to the "bait" by coming into the store, the salesperson "switches" and tries to get them to buy a more expensive item.

   If the ad had said that there were only a limited number of damaged tables available, it would be okay.

2. This may be an illegal bait and switch sales tactic. The test is whether the seller had a "bona fide (good faith) intent to actually sell" the damaged table. This would be something that judge or jury would decide.

3. This is an illegal phony contest. There was no contest at all, the seller just used the interview as a pretext. The customer is paying the actual price of the books.

   Tell students that while many door-to-door salespeople are honest, there are some salespeople who take advantage of people who have a hard time saying "no," in a face-to-face encounter. The law recognizes this, and gives a purchaser *three days* to cancel any sale made from a door-to-door salesperson, if the price is more than $25.

4. This is illegal, under the Commercial Telephone Solicitation Act. That law makes it illegal for sellers to use deceptive or misleading sales practices over the phone. The seller is surely misrepresenting the quality and availability of the necklaces, in order to make money on the 900 number calls. This is based on a real ad sent to consumers in Washington in 1991.

■ Depending on the level of your class, you may want to spend an extra class helping them prepare for the mock trial. You will want to spend time on Procedures #3 and #4 in Lesson 3. The students may wish to practice their arguments for you the day before the judge comes.

■ Tell students a judge will come to the next class to answer any other questions they have about consumer law.

Fair or Unfair?

Decide whether or not you think the merchant's actions are fair or unfair. If you think you need more information, check "undecided."

1. Sokha and Le see an advertisement for "damaged dining room tables on sale for $300." They go to the store. The salesman tells them that the damaged tables have been sold. The salesman then shows them dining room tables that cost $600.

   ☐ Fair ☐ Unfair ☐ Undecided

2. When Sokha and Le arrive at the store to buy the damaged table, a salesman shows them a damaged table for $300. He also suggests that a much nicer table is available for $600.

   ☐ Fair ☐ Unfair ☐ Undecided

3. A New Age Encyclopedia salesman comes to Maxine's home. He interviews her about her beliefs in education. As a result of Maxine's answers, New Age agrees to place an encyclopedia in her home at no cost. Maxine's only obligation is to pay for annual supplements at $50 each for the next ten years. Maxine must pay for these ten supplements ($500) in advance. In reality, the encyclopedia and supplements cost $500.

   ☐ Fair ☐ Unfair ☐ Undecided

4. Shelly receives a postcard offering her a "thrilling, heart-shaped 14-karat gold-flash medallion containing 10,000 dazzling diamonds and one matching 14-karat gold-flash 18-inch necklace" from Henri Hamilton of J.E.N. Jewels of New York. The cost is just $3.00. Shelly calls the 900 telephone number on the post-card. The operator tell her that all of the advertised necklaces are gone. Later, Shelly's phone bill includes a charge of $6.95 for the 900 number call.

   ☐ Fair ☐ Unfair ☐ Undecided

Consumer Law — Unfair and Deceptive Sales Practices

Lesson 3: Mock Trial

Objectives

- Students will conduct a mock trial.
- Students will learn about how to bring a case in Small Claims Court.

Estimated Time

One 50-minute class period.

Materials

Copies of handouts — Renko; Andrew; Resource List and Tips.

Vocabulary

- **Defendant** — person against whom a civil case is brought (in a criminal case, the person accused of committing a crime).
- **Plaintiff** — the party who brings a lawsuit.

Procedures

■ Begin the class by introducing yourself to the students, and telling a little bit about what you do, if this is your first class.

> **Your State**
> Does your state have a small claims court? What are the procedures to file there?

■ Tell students that you will be conducting a mock trial today, in Small Claims Court. Explain that Small Claims Court is very informal. No lawyers are allowed to represent people. The maximum amount a judge can award is $2500. The judge cannot order someone to do anything except pay money to the other person.

■ Divide the class into 2 groups, one being the plaintiff, and the other the defendant. If the class is large, you may want to subdivide the halves into smaller working groups. (Groups generally work best with no more than 5 students.)

■ Give the plaintiff groups the Renko handout and the defendant groups Andrew's handout. Tell students they are to work together and prepare their case for the judge. They will have no more than 5 minutes to tell the judge their side. The judge will ask questions, and then make a decision. Tell each group to write 3 or 4 points they want to make on a sheet of paper.

You might also suggest that students make up additional witnesses to testify at the hearing.

Ask the classroom teacher to help you circulate around the groups and make sure they understand the Handouts, and what they are to do. Give the groups 20 minutes to prepare.

■ As the groups are working, ask the classroom teacher to help arrange the front of the room as a courtroom, with a table and chair for the judge, witness chair, and tables for the parties to sit before testifying.

■ Conduct the hearing, and ask the witnesses questions. Make a ruling, and then explain why

JUDGE'S LESSON

you ruled as you did.

■ Then, discuss with the class other alternatives Renko might have tried before going to Small Claims Court:

- She could have continued trying to contact Andrew and trying to work something out with him herself.
- She could have contacted the Better Business Bureau. Explain that the BBB is a membership organization and maintains records of businesses in the community that have been the subject of complaints and how the complaints were resolved. The BBB has phone representatives who will discuss consumer problems over the phone. They will also assist consumers in trying to resolve disputes through mediation.
- She could have taken the machine into his shop and talked to him.
- She could have gotten an estimate of the cost to repair and given this information to Andrew.
- Another option for Renko would be to contact the Washington State Attorney General's Office, Consumer and Business Fair Practices Division. This office takes calls from consumers, answers questions, and makes referrals. The consumer may file a written complaint, which is investigated. A staff person will contact the business involved, explain the complaint, and attempt to work out a settlement. If no settlement can be reached, the consumer has the option of filing in Small Claims Court, using a private attorney, or trying mediation or arbitration.
- The Attorney General's Office also has a ConsumerLine Tape Library, which answers common consumer questions. The statewide toll-free number is 1-800-551-4636.

Give students a copy of the Consumer Resource Referral List, and Tips.

■ As a writing assignment, ask students to pretend the sewing machine just broke, and Renko has called Andrew. He has not returned her calls. Write a letter to Andrew telling him about the problem. Tell students to refer to the tips about letters of complaint, at the end of the lesson.

Renko (Plaintiff)

You started this case in the Small Claims Court. Six months ago, you purchased a sewing machine from Andrew's Deluxe Sewing Machine Shop. Andrew, the owner, sold the machine to you.

When you came in the shop, you told Andrew that you needed a really good, dependable sewing machine. You are a full-time seamstress and work at home. You make clothing alterations for a dry cleaners owned by your cousin. You use the machine at least 8 hours a day.

Andrew recommended a used machine. He told you that it had been rebuilt. You paid $350 for it. Andrew told you that it should last "years."

You used the sewing machine for about a month and a half with no problems. Then it broke. You called Andrew, and he promised to call you back, but never did. Then you talked to your cousin. He suggested that you call the Better Business Bureau. By that time, you were angry. You decided to sue Andrew in Small Claims Court. You want to recover the entire $350 from Andrew.

Andrew (Defendant)

You have owned your Sewing Machine Shop for 25 years.
Your reputation in the community is important to you.
You are a member of the Better Business Bureau.

You remember selling the sewing machine to Renko, but you do not remember that she told you she would be using it 8 hours a day.

The machine you sold her was in fine condition. It had been rebuilt and should have lasted for a year, at least. You wonder if she might have dropped it or misused it in some way.

You tried to call her back when she called about the problem and never got an answer. If she had called the Better Business Bureau, you would have been happy to try to work something out with her.

Now, you are angry that she sued you in court. You do not think you should have to pay anything.

Resource Referral List

Your State
What resources exist in your state to assist consumers?

Attorney General's Office, Consumer and Business Fair Practices Division
Toll Free 1-800-551-4636

Seattle Office: 206-464-6684

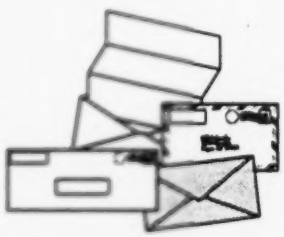
Olympia Office: 206-753-6210

Tacoma Office: 206-593-29004

Spokane Office: 509-456-3123

Tips on Writing a Letter of Complaint

[Abstracted from *Street Law, A Course in Practical Law*, West Publishing Co., 1990.]



1. Include your name, address and phone number.
2. Be brief and to the point.
3. Include all important facts, including date of purchase.
4. Explain the problem, and what you have done to try to correct it.
5. Include copies of any documents, such as the sales receipt or repair bills.
6. Consider sending a copy of the letter to the Attorney General's office.
7. Keep a copy for yourself.
8. You may want to send the letter "return receipt requested."